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ABSTRACT

Provisions of the Higher Education Act of 1965 are presented in this committee print. The following parts of the legislation are detailed: Title I, community service and continuing education programs; Title II, college library assistance and library training and research; Title III, strengthening developing institutions; Title IV, student assistance; Title V, Teacher Corps and teacher training programs; Title VI, financial assistance for the improvement of undergraduate instruction; Title VII, construction, reconstruction and renovation of academic facilities; Title VIII, cooperative education; Title IX, graduate programs; Title X, establishment and expansion of community colleges; Title XI, law school clinical experience programs; and Title XII, general provisions. The Indian Higher Education Programs, Navajo Community College Act and the Tribally Controlled Community College Assistance Act of 1978 are also outlined. (SW)

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[COMMITTEE PRINT]

HIGHER EDUCATION ACT OF 1965
AND RELATED STATUTES

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

U S DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
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HIGHER EDUCATION ACT OF 1965

(P.L. 89-329)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Act of 1965".

TITLE I—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

PART A—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS [1]

APPROPRIATIONS AUTHORIZED

SEC. 101. (a) For the purpose of (1) assisting the people of the United States in the solution of community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use by enabling the Commissioner to make grants under this title to strengthen community service programs of colleges and universities, (2) supporting the expansion of continuing education in colleges and universities, and (3) supporting resource materials sharing programs, there are authorized to be appropriated $40,000,000 for the fiscal years 1977, 1978, and 1979.

(b) For the purpose of carrying out a program for the promotion of lifelong learning in accordance with the provisions of part B, there are authorized to be appropriated, $20,000,000 for fiscal year 1977, $30,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979.

(20 U.S.C. 1001) Enacted Nov. 8, 1965, P.L. 89-329, Title I, sec. 101, 79 Stat. 1219; amended Oct. 16, 1968, P.L. 90-575, Title II, sec. 201, 82 Stat. 1035; amended June 23, 1972, P.L. 92-318, Title I, sec. 101(a), 86 Stat. 236; amended October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(a), 90 Stat. 2083.

DEFINITION OF COMMUNITY SERVICE PROGRAM AND CONTINUING EDUCATION PROGRAM

SEC. 102. (a) For purposes of this part, the term "community service program" means an educational program, activity, or service, including a research program and a university extension or continuing education offering, which is designed to assist in the solution of community problems in rural, urban, or suburban areas, with particular emphasis on urban and suburban problems, where the institution offering such program, activity, or service determines—

(1) that the proposed program, activity, or service is not otherwise available, and

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[1] Added by Section 101(g) of Title I of P.L. 94-482.

(2) that the conduct of the program or performance of the activity or service is consistent with the institution's overall educational program and is of such a nature as is appropriate to the effective utilization of the institution's special resources and the competencies of its faculty.

Where course offerings are involved, such courses must be university extension or continuing education courses and must be—

(A) fully acceptable toward an academic degree, or

(B) of college level as determined by the institution offering such courses.

(b) For purposes of this part, the term "continuing education program" means postsecondary instruction designed to meet the educational needs and interests of adults, including the expansion of available learning opportunities for adults who are not adequately served by current educational offerings in their communities.

(c) For purposes of this part, the term "resource materials sharing programs" means planning for the improved use of existing community learning resources by finding ways that combinations of agencies, institutions, and organizations can make better use of existing educational materials, communications technology, local facilities, and such human resources as will expand learning opportunities for adults in the area being served.

(20 U.S.C. 1002) Enacted Nov. 8, 1965, P.L. 89-329, Title I, sec. 102, 79 Stat. 1219; amended October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(b)(1)(A), (b)(1)(B), (b)(1)(C), sec. 101(g)(2), 90 Stat. 2083, 2086.

ALLOTMENTS TO STATES

SEC. 103. From the sums appropriated pursuant to section 101(a) for any fiscal year which are not reserved under section 106(a),[1] the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the population of such State bears to the population of all the States, except that, for any fiscal year beginning on or after October 1, 1976, no State shall be allotted from such sums less than the amount which such State received during the fiscal year beginning July 1, 1974.

(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year for carrying out the State plan (if any) approved under this part shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under such subsection for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year for carrying out the State plan; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year from funds appropriated pursuant to section 101 shall be deemed part of its allotment under subsection (a) for such year.

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[1] Section 102(b) of P.L. 92-318 provides as follows:

"(b) The amendments made by the the second sentence of paragraph (1) of subsection (a) and by paragraph (2) of such subsection shall be effective after June 30, 1972, and then—

"(1) only with respect to appropriations for title I of the Higher Education Act of 1965 for fiscal years beginning after June 30, 1972; and

"(2) only to the extent that the allotment to any State under section 103(a) of such title is not less for any fiscal year than the allotment to that State under such section 103(a) for the fiscal year ending June 30, 1972."

(c) In accordance with regulations of the Commissioner, any State may file with him a request that a specified portion of its allotment under this part be added to the allotment of another State under this part for the purpose of meeting a portion of the Federal share of the cost of providing community service programs under this part. If it is found by the Commissioner that the programs with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of such State's allotment, as requested by it, would assist in carrying out the purposes of this part, such portion of such State's allotment shall be added to the allotment of the other State under this part to be used for the purpose referred to above.

(d) The population of a State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available from the Department of Commerce.

(20 U.S.C. 1003) Enacted Nov. 8, 1965, P.L. 89-329, Title I, sec. 103, 79 Stat. 1220; amended June 23, 1972, P.L. 92-318, sec. 102(a)(2), 86 Stat. 237; amended Oct. 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(b)(2), sec. 101(g)(2), 90 Stat. 2084, 2086; amended June 15, 1977, P.L. 95-43, sec. 1(a)(1), 91 Stat. 213.

USES OF ALLOTTED FUNDS

Sec. 104. A State's allotment under section 103 may be used, in accordance with its State plan approved under section 105(b), to provide new, expanded, or improved community service and continuing education programs, including resource material sharing programs.

(20 U.S.C. 1004) Enacted Nov. 8, 1965, P.L. 89-329, Title I, sec. 104, 79 Stat. 1220; amended October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(b)(3), 90 Stat. 2084; amended June 15, 1977, P.L. 95-43, sec. 1(a)(2), 91 Stat. 213.

STATE PLANS

Sec. 105. (a) Any State desiring to receive its allotment of funds under this part for use in community service and continuing education programs, including resource material sharing programs, shall designate or create a State agency or institution which has special qualifications with respect to solving community problems and which is broadly representative of institutions of higher education in the State which are competent to offer community service and continuing education programs, including resource material sharing programs, and shall submit to the Commissioner a State plan. If a State desires to designate for the purpose of this section an existing State agency or institution which does not meet these requirements, it may do so if the agency or institution takes such action as may be necessary to acquire such qualifications and assure participation of such institutions, or if it designates or creates a State advisory council which meets the requirements not met by the designated agency or institution to consult with the designated agency or institution in the preparation of the State plan. A State plan submitted under this part shall—

(1) provide that the agency or institution so designated or created shall be the sole agency for administration of the plan or for supervision of the administration of the plan; and provide that such agency or institution shall consult with any State advisory council required to be created by this section with respect to policy matters arising in the administration of such plan;

(2) set forth a comprehensive, coordinated, and statewide system of community service and continuing education programs, including resource materials sharing programs under which funds paid to the State (including funds paid to an institution or combination pursuant to section 107(c)) under its allotments under section 103 will be expended solely for community service and continuing education programs, including resource materials sharing programs which have been approved by the agency or institution administering the plan (except that if a comprehensive, coordinated, and statewide system of community service and continuing education programs, including resource materials sharing programs cannot be effectively carried out by reason of insufficient funds, the plan may set forth one or more proposals for community service and continuing education programs, including resource materials sharing programs in lieu of a comprehensive, coordinated, statewide system of such programs);

(3) set forth the policies and procedures to be followed in allocating Federal funds to institutions of higher education and combinations thereof in the State, which policies and procedures shall insure that due consideration will be given—

(A) to the relative capacity and willingness of particular institutions of higher education and combinations thereof (whether public or private) to provide effective community service and continuing education programs, including resource materials sharing programs;

(B) to the availability of and need for community service and continuing education programs, including resource materials sharing programs among the population within the State; and

(C) to the results of periodic evaluations of the programs carried out under this part;

(4) set forth policies and procedures designed to assure that Federal funds made available under this part will be so used as not to supplant State or local funds, or funds of institutions of higher education, but to supplement and, to the extent practicable, to increase the amounts of such funds that would in the absence of such Federal funds be made available for community service and continuing education programs, including resource materials sharing programs;

(5) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of an accounting for Federal funds paid to the State (including such funds paid by the State or by the Commissioner to institutions of higher education or combinations thereof) under this part; and

(6) provide assurances that all institutions of higher education in the State have been given the opportunity to participate in the development of the State plan.

(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

(c) The Commissioner shall not by standard, rule, regulation, guideline, or any other means, either formal or informal, require a State to make any agreement or submit any data which is not specifically required by this part.

(20 U.S.C. 1005) Enacted Nov. 8, 1965, P.L. 89-329, Title I, sec. 105, 79 Stat. 1220; amended Oct. 16, 1968, P.L. 90-575, Title II, sec. 202, 82 Stat. 1036; amended Oct. 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(b)(4), (b)(5), (b)(6)(A), (b)(6)(B), (b)(6)(C), (b)(7), (b)(8), (b)(9), (b)(10), sec. 101(g)(2), 90 Stat. 2084, 2085; amended June 15, 1977, P.L. 95-43, sec. 1(a)(3), 91 Stat. 213; further amended June 15, 1977, P.L. 95-43, sec. 1(b)(1), (b)(2), 91 Stat. 218.

SPECIAL PROGRAMS AND PROJECTS RELATING TO NATIONAL AND REGIONAL PROBLEMS

Sec. 106. (a) The Commissioner is authorized to reserve from the sums appropriated pursuant to section 101 for any fiscal year an amount not in excess of 10 per centum of the sums so appropriated for that fiscal year for grants pursuant to subsection (b).

(b)(1) From the sums reserved under subsection (a), the Commissioner is authorized to make grants to, and contracts with institutions of higher education (and combinations thereof) to assist them in carrying out special programs and projects, consistent with the purposes of this part, which are designed to seek solutions to national and regional problems relating to technological and social changes and environmental pollution.

(2) No grant or contract under this section shall exceed 90 per centum of the cost of the program or project for which application is made.[1]

(20 U.S.C. 1005a) Enacted June 23, 1972, P.L. 92-318, sec. 102(a)(1), 86 Stat. 236-237; amended October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(g)(2), 90 Stat. 2086.

PAYMENTS

Sec. 107. (a) Except as provided in subsection (b), payment under this part shall be made to those State agencies and institutions which administer plans approved under section 105(b). Payments under this part from a State's allotment with respect to the cost of developing and carrying out its State plan shall equal 75 per centum of such costs for the fiscal year ending June 30, 1966, 75 per centum of such costs for the fiscal year ending June 30, 1967, 50 per centum of such costs for the fiscal year ending June 30, 1968, and 66⅔ per centum of such costs for fiscal years ending on or after June 30, 1969, except that no payments for any fiscal year shall be made to any State with respect to expenditures for developing and administering the State plan which exceed 5 per centum of the costs for that year for which payment under this subsection may be made to that State, or $40,000, whichever is the greater. In determining the cost of developing and carrying out a State's plan, there shall be excluded any cost with respect to which payments were received under any other Federal program.

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[1] Section 102(b) of P.L. 92-318 provides as follows:

"(b) The amendments made by the second sentence of paragraph (1) of subsection (a) and by paragraph (2) of such subsection shall be effective after June 30, 1972, and then—

"(1) only with respect to appropriations for title I of the Higher Education Act of 1965 for fiscal years beginning after June 30, 1972; and "

"(2) only to the extent that the allotment to any State under section 103(a) of such title is not less for any fiscal year than the allotment to that State under such section 103(a) for the fiscal year ending June 30, 1972."

(b) No payments shall be made to any State from its allotments for any fiscal year unless and until the Commissioner finds that the institutions of higher education which will participate in carrying out the State plan for that year will together have available during that year for expenditure from non-Federal sources for college and university extension and continuing education programs not less than the total amount actually expended by those institutions for college and university extension and continuing education programs from such sources during the fiscal year ending June 30, 1965, plus an amount equal to not less than the non-Federal share of the costs with respect to which payment pursuant to subsection (a) is sought.

(c) Payments to a State under this part may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments, and they may be paid directly to the State or to one or more participating institutions of higher education designated for this purpose by the State, or to both.

(20 U.S.C. 1006) Enacted Nov. 8, 1965, P.L. 89-329, Title I, sec. 106, 79 Stat. 1221; amended Oct. 16, 1968, P.L. 90-575, Title II, sec. 203, 82 Stat. 1036; renumbered June 23, 1972, P.L. 92-318, Title I, sec. 102(a)(1), 86 Stat. 236; amended October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(c), sec. 101(g)(2), 90 Stat. 2085, 2086.

ADMINISTRATION OF STATE PLANS

SEC. 108. (a) The Commissioner shall not finally disapprove any State plan submitted under this part, or any modification thereof, without first affording the State agency or institution submitting the plan reasonable notice and opportunity for a hearing.

(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency or institution administering a State plan approved under section 105(b), finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 105(a), or

(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify the State agency or institution that the State will not be regarded as eligible to participate in the program under this part until he is satisfied that there is no longer any such failure to comply.

(20 U.S.C. 1007) Enacted Nov. 8, 1965, P.L. 89-329, Title I, sec. 107, 79 Stat. 1222; renumbered June 23, 1972, P.L. 92-318, sec. 102(a)(1), 86 Stat. 236; amended October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(g)(2), 90 Stat. 2086.

JUDICIAL REVIEW

SEC. 109. If a State's plan is not approved under section 105(b) or a State's eligibility to participate in the program is suspended as a result of the Commissioner's action under section 108(b), the State may within sixty days after notice of the Commissioner's decision institute a civil action in an appropriate United States district court. In such an action, the court shall determine the matter de novo.

(20 U.S.C. 1008) Enacted Nov. 8, 1965, P.L. 89-329, Title I, sec. 108, 79 Stat. 1222; renumbered June 23, 1972, P.L. 92-318, sec. 102(a)(1), 86 Stat. 236; amended October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(d), 90 Stat. 2085.

SPECIAL PROGRAMS AND PROJECTS RELATING TO PROBLEMS OF THE ELDERLY

SEC. 110. (a) The Commissioner is authorized to make grants to institutions of higher education (and combinations thereof) to assist such institutions in planning, developing, and carrying out, consistent with the purpose of this part, programs specifically designed to apply the resources of higher education to the problems of the elderly, particularly with regard to transportation and housing problems of elderly persons living in rural and isolated areas.

(b) For purposes of making grants under this section, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, for each succeeding fiscal year ending prior to October 1, 1978, and for the period beginning July 1, 1976, and ending September 30, 1976.

(c) In carrying out the program authorized by this section, the Commissioner shall consult with the Commissioner of the Administration on Aging for the purpose of coordinating, where practicable, the programs assisted under this section with the programs assisted under the Older Americans Act of 1965.

(20 U.S.C. 1008-1) Enacted May 3, 1973, P.L. 93-29, sec. 803, 87 Stat. 59; amended November 28, 1975, P.L. 94-135, sec. 201, 89 Stat. 726; amended October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(g)(2), 90 Stat. 2086.

TECHNICAL ASSISTANCE AND ADMINISTRATION

SEC. 111. (a) The Commissioner is authorized to reserve not to exceed 10 per centum of the amount appropriated for any fiscal year pursuant to section 101(a) in excess of $14,500,000 for the purpose of this section.

(b) From funds reserved under subsection (a) of this section, the Commissioner shall provide technical assistance to the States and to institutions of higher education. Such technical assistance shall—

(1) provide a national diffusion network to help assure that effective programs are known among such States and institutions;

(2) assist with the improvement of planning and evaluation procedures; and

(3) provide information about the changing enrollment patterns in postsecondary institutions, and provide assistance to such States and institutions in their efforts to understand these changing patterns and to accommodate them.

(c) The Commisssioner shall provide for coordination between community service and continuing education programs (including resource materials sharing programs) conducted by him with all other appropriate offices and agencies, including such offices and agencies which administer vocational education programs, adult education programs, career education programs, and student and institutional assistance programs.

(20 U.S.C. 1008b) Enacted October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(e), 90 Stat. 2085.

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

SEC. 112. (a) The President shall, within ninety days of enactment of this part, appoint a National Advisory Council on Extension and Continuing Education (hereafter referred to as the "Advisory Council"), consisting of one representative each of the Department of Agriculture, Commerce, Defense, Labor, Interior, State, and Housing and Urban Development, and the Office of Economic Opportunity, and of such other Federal agencies having extension education responsibilities as the President may designate, and twelve members appointed, for staggered terms and without regard to the civil service laws, by the President. Such twelve members shall, to the extent possible, include persons knowledgeable in the fields of extension and continuing education, State and local officials, and other persons having special knowledge, experience, or qualification with respect to community problems, and persons representative of the general public. The Advisory Council shall meet at the call of the Chairman but not less often than twice a year.

(b) The Advisory Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this part, including policies and procedures governing the approval of State plans under section 105(b), and policies to eliminate duplication and to effectuate the coordination of programs under this part and other programs offering extension or continuing education activities and services.

(c) The Advisory Council shall review the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs, make recommendations with respect thereto, and make annual reports, commencing on March 31, 1967, of its findings and recommendations (including recommendations for changes in the provisions of this part and other Federal laws relating to extension and continuing education activities) to the Secretary and to the President. The President shall transmit each such report to the Congress together with his comments and recommendations.

(f) In carrying out its functions pursuant to this section, the Advisory Council may utilize the services and facilities of any agency of the Federal Government, in accordance with agreements between the Secretary and the head of such agency. Subject to section 448(b) of the General Education Provisions Act, the Advisory Council shall continue to exist until the programs authorized by this part are terminated.

(20 U.S.C. 1009) Enacted Nov. 8, 1965, P.L. 89-329, Title I, sec. 109, 79 Stat. 1223; subsections (d) and (e) repealed April 13, 1970, P.L. 91-320, sec. 401(h) and superseded by Part C of Title IV of P.L. 90-247 as amended; renumbered June 23, 1972, P.L. 92-318, sec. 102(a)(1), 86 Stat. 236; renumbered, May 3, 1973, P.L. 93-29, sec. 803, 87 Stat. 54; amended August 21, 1974, P.L. 93-380, sec. 831, 88 Stat. 603; renumbered and amended October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(e), Title I, Part A, sec. 101(f)(1)(A) and (f)(1)(B), Title I, Part A, sec. 101(g)(2), 90 Stat. 2085, 2086

RELATIONSHIP TO OTHER PROGRAMS

Sec. 113. Nothing in this section shall modify any authority under the Act of May 8, 1914 (Smith-Lever Act), as amended (7 U.S.C. 341-348).

(20 U.S.C. 1010) Enacted Nov. 8, 1965, P.L. 89-329, Title I, sec. 110, 79 Stat. 1224; renumbered June 23, 1972, P.L. 92-318, sec. 102(a)(1), 86 Stat. 236; renumbered May 3, 1973, P.L. 93-29, sec. 803, 87 Stat. 59; renumbered and amended October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(e) and sec. 101(f)(2), 90 Stat. 2085, 2086.

LIMITATION

Sec. 114. No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity.

(20 U.S.C. 1011) Enacted Nov. 8, 1965, P.L. 89-329, Title I, sec. 111, 79 Stat. 1224; renumbered June 23, 1972, P.L. 92-318, sec. 102(a)(1), 86 Stat. 236; amended June 23, 1972, P.L. 92-318, sec. 131(d)(2), 86 Stat. 260; renumbered May 3, 1973, P.L. 93-29, sec. 803, 87 Stat. 59, renumbered October 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(e), 90 Stat. 2085.

(Note.—Section 103 of P.L. 92-318 provides as follows:)

EVALUATION OF ACTIVITIES

Sec. 103. (a) During the period beginning with the date of enactment of this Act and ending July 1, 1974, the National Advisory Council on Extension and Continuing Education, hereafter in this section referred to as the National Advisory Council, shall conduct a review of the programs and projects carried out with assistance under title I of the Higher Education Act of 1965 prior to July 1, 1973. Such review shall include an evaluation of specific programs and projects with a view toward ascertaining which of them show, or have shown (1) the greatest promise in achieving the purposes of such title, and (2) the greatest return for the resources devoted to them. Such review shall be carried by direct evaluations by the National Advisory Council, by the use of other agencies, institutions, and groups, and by the use of independent appraisal units.

(b) Not later than March 31, 1973, and March 31, 1975, the National Advisory Council shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives a report on the review conducted pursuant to subsection (a). Such report shall include (1) an evaluation of the program authorized by title I of the Higher Education Act of 1965 and of specific programs and projects assisted through payments under such title, (2) a description and an analysis of programs and projects which are determined to be most successful, and (3) recommendations with respect to the means by which the most successful programs and projects can be expanded and replicated.

(c) Sums appropriated pursuant to section 401(c) of the General Education Provisions Act for the purposes of section 402 of such Act shall be available to carry out the purposes of this section.

PART B—LIFELONG LEARNING[1]

FINDINGS

SEC. 131. The Congress finds that—

(1) accelerating social and technological change have had impact on the duration and quality of life;

(2) the American people need lifelong learning to enable them to adjust to social, technological, political and economic changes;

(3) lifelong learning has a role in developing the potential of all persons including improvement of their personal well-being, upgrading their workplace skills, and preparing them to participate in the civic, cultural, and political life of the Nation;

(4) lifelong learning is important in meeting the needs of the growing number of older and retired persons;

(5) learning takes place through formal and informal instruction, through educational programs conducted by public and private educational and other institutions and organizations, through independent study, and through the efforts of business, industry, and labor;

(6) planning is necessary at the national, State, and local levels to assure effective use of existing resources in the light of changing characteristics and learning needs of the population;

(7) more effective use should be made of the resources of the Nation's educational institutions in order to assist the people of the United States in the solution of community problems in areas such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use; and

(8) American society should have as a goal the availability of appropriate opportunities for lifelong learning for all its citizens without regard to restrictions of previous education or training, sex, age, handicapping condition, social or ethnic background, or economic circumstance.

(20 U.S.C. 1015) Enacted October 12, 1976, P.L. 94-482, Title I, Part A, Sec. 101(g)(3), 90 Stat. 2086.

SCOPE OF LIFELONG LEARNING

SEC. 132. Lifelong learning includes, but is not limited to, adult basic education, continuing education, independent study, agricultural education, business education and labor education, occupational education and job training programs, parent education, postsecondary education, preretirement and education for older and retired people, remedial education, special educational programs for groups or for individuals with special needs, and also educational activities designed to upgrade occupational and professional skills, to assist business, public agencies, and other organizations in the use or innovation and research results, and to serve family needs and personal development.

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[1] Added by title I of Pub. L. 94-482, the Education amendments of 1976.

(20 U.S.C. 1015a) Enacted October 12, 1976, P.L. 94-482, Title I, Part A, Sec. 101(g)(3), 90 Stat. 2087.

LIFELONG LEARNING ACTIVITIES

SEC. 133. (a) The Assistant Secretary shall carry out, from funds appropriated pursuant to section 101(b), a program of planning, assessing, and coordinating projects related to lifelong learning. In carrying out the provisions of this section, the Assistant Secretary shall—

(1) foster improved coordination of Federal support for lifelong learning programs;

(2) act as a clearinghouse for information regarding lifelong learning, including the identification, collection, and dissemination to educators and the public of existing and new information regarding lifelong learning programs which are or may be carried out and supported by any department or agency of the Federal Government;

(3) review present and proposed methods of financing and administering lifelong learning, to determine—

(A) the extent to which each promotes lifelong learning,

(B) program and administrative features of each that contribute to serving lifelong learning,

(C) the need for additional Federal support for lifelong learning, and

(D) procedures by which Federal assistance to lifelong learning may be better applied and coordinated to achieve the purpose of this title;

(4) review the lifelong learning opportunities provided through employers, unions, the media, libraries and museums, secondary schools and postsecondary educational institutions, and other public and private organizations to determine means by which the enhancement of their effectiveness and coordination may be facilitated;

(5) review existing major foreign lifelong learning programs and related programs in order to determine the applicability of such programs in this country;

(6) identify existing barriers to lifelong learning and evaluate programs designed to eliminate such barriers; and

(7) to the extent practicable, seek the advice and assistance of the agencies of the Education Division (including the Office of Education, the National Institute of Education, the Fund for the Improvement of Postsecondary Education and the National Center for Education Statistics), other agencies of the Federal Government, public advisory groups (including the National Advisory Councils on Extension and Continuing Education, Adult Education, Career Education, Community Education, and Vocational Education), Commissions (including the National Commission on Libraries and Information Sciences and the National Commission on Manpower Policy), State agencies, and such other persons or organizations as may be appropriate, in carrying out the Assistant Secretary's responsibilities, and make maximum use of information and studies already availa-

ble. The[1] review required by clause (3) of this subsection shall include—

(i) a comparative assessment of domestic and foreign tax and other incentives to encourage increased commitment of business and labor;

(ii) a study of alternatives such as lifelong learning entitlement programs or educational vouchers designed to assist adults to undertake education or training in conjunction with, or in periods alternative to employment;

(iii) review of possible modifications to existing Federal and State student assistance programs necessary to increase their relevance to the lifelong learning needs of all adults;

(iv) the organization and design of funding for pre- and post-retirement training and education for the elderly; and

(v) modifications to Federal and State manpower training, public employment, unemployment compensation, and similar funding programs so as to better facilitate lifelong education and training and retraining, for employment.

(b) After consultation with appropriate State agencies, the Assistant Secretary is authorized—

(1) to assist in the planning and assessment, to determine whether in each State there is an equitable distribution of lifelong learning services to all segments of the adult population;

(2) to assist in assessing the appropriate roles for the Federal, State, and local governments, educational institutions and community organizations; and

(3) to assist in considering alternative methods of financing and delivering lifelong learning opportunities, including—

(A) identification of State agencies, institutions, and groups that plan and provide programs of lifelong learning,

(B) determination of the extent to which programs are available geographically,

(C) a description of demographic characteristics of the population served,

(D) analysis of reasons for attendance in programs of lifelong learning, and

(E) analysis of sources of funds for the conduct of lifelong learning programs, and the financial support of persons attending programs of lifelong learning.

(c) The Assistant Secretary is authorized, with respect to lifelong learning, to assess, evaluate the need for, demonstrate, and develop alternative methods to improve—

(1) research and development activities;

(2) training and retraining people to become educators of adults;

(3) development of curricula and delivery systems appropriate to the needs of any such programs;

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[1] In an apparent typographical error in the slip law, there are no quotation marks before *The*. Based upon an examination of Senate Report No. 94-882 and S. 2657 (as passed in the Senate on August 27, 1976), we assume that the sentence beginning with the words "The review required by clause (3)" and ending with the words "and training and retraining, for employment" is a part of Section 133(a).

(4) development of techniques and systems for guidance and counseling of adults and for training and retraining of counselors;

(5) development and dissemination of instructional materials appropriate to adults;

(6) assessment of the educational needs and goals of older and retired persons and their unique contributions to lifelong learning programs;

(7) use of employer and union tuition assistance and other educational programs, educational and cultural trust funds and other similar educational benefits resulting from collective bargaining agreements, and other private funds for the support of lifelong learning;

(8) integration of public and private educational funds which encourage participation in lifelong learning, including support of guidance and counseling of workers in order that they can make best use of funds available to them for lifelong learning opportunities; and

(9) coordination within communities among educators, employers, labor organizations, and other appropriate individuals and entities to assure that lifelong learning opportunities are designed to meet projected career and occupational needs of the community, after consideration of the availability of guidance and counseling, the availability of information regarding occupational and career opportunities, and the availability of appropriate educational and other resources to meet the career and occupational needs of the community.

(d) In carrying out the provisions of this section the Assistant Secretary is authorized to enter into agreements with, and to make grants to, appropriate State agencies, institutions of higher education, and public and private nonprofit organizations.

(e) In carrying out the provisions of this section, the Assistant Secretary shall issue reports summarizing research and analysis conducted pursuant to this section, and shall develop the resources and capability to analyze and make recommendations regarding specific legislative or administrative proposals which may be considered by the President or by the Congress.

(20 U.S.C. 1015b) enacted Oct. 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(g)(3), 90 Stat. 2087, 2088, 2089; amended June 15, 1977, P.L. 95-43, sec. 1(a)(4), 91 Stat. 213.

REPORTS

SEC. 134. The Assistant Secretary shall transmit to the President and to the Congress a report on such results from the activities conducted pursuant to this part as may be completed by January 1, 1978, together with such legislative recommendations as he may deem appropriate. The Assistant Secretary shall similarly report annually thereafter.

(20 U.S.C. 1015c) enacted Oct. 12, 1976, P.L. 94-482, Title I, Part A, sec. 101(g)(3), 90 Stat. 2089.

TITLE II—COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH[1]

COLLEGE LIBRARY PROGRAMS; TRAINING; RESEARCH

SEC. 201. (a) The Commissioner shall carry out a program of financial assistance—

(1) to assist and encourage institutions of higher education in the acquisition of library resources, including law library resources, in accordance with part A; and

(2) to assist with and encourage research and training persons in librarianship, including law librarianship, in accordance with part B.

(b) For the purpose of making grants under parts A and B, there are authorized to be appropriated $110,000,000 for fiscal year 1977, $115,000,000 for fiscal year 1978, and $120,000,000 for fiscal year 1979. Of the sums appropriated pursuant to the preceding sentence for any fiscal year, 70 per centum shall be used for the purposes of part A and fiscal year, and 30 per centum shall be used for the purposes of part B, except that the amount available for the purposes of part B for any fiscal year shall not be less than the amount appropriated for such purposes for the fiscal year ending June 30, 1972.

(c) For the purposes of this title—

(1) the term "library resources" means books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials, and other related library materials, including necessary binding; and

(2) the term "librarianship" means the principles and practices of the library and information sciences, including the acquisition, organization, storage, retrieval and dissemination of information, and reference and research use of library and information resources.

(20 U.S.C. 1021) Enacted Nov. 8, 1965, P.L. 89-329, Title II, sec. 201, 79 Stat. 1124; amended Oct. 16, 1968, P.L. 90-575, Title II, sec. 211, 82 Stat. 1036; amended June 23, 1972, P.L. 92-318, Title I, sec. 111(b)(1), 86 Stat. 238; amended October 12, 1976, P.L. 94-482, Title I, Part B, sec. 106, 90 Stat. 2089.

PART A—COLLEGE LIBRARY RESOURCES

BASIC GRANTS

SEC. 202. From the amount available for grants under this part pursuant to section 201 for any fiscal year, the Commissioner shall make basic grants for the purposes set forth in section 201(a)(1) to institutions of higher education, to combinations of such institutions, to new institutions of higher education in the fiscal year preceding the fiscal year in which students are to be enrolled (in accordance with criteria prescribed by regulation), and other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal, cooperative basis. The amount of a basic grant shall, for any fiscal year, be equal to the amount expended by the applicant for library resources during that year from funds other than funds received under this part, except that no basic grant shall exceed $5,000 for each such institution of higher education and each branch of such institution which is located in a community different from that in which its parent institution is located, as determined in accordance with regulations of the Commissioner, and a basic grant under this subsection may be made only if the application therefor is approved by the Commissioner upon his determination that the application (whether by an individual institution or a combination of institutions)—

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[1] Section 519 of P.L. 93-380 provides as follows:

"SEC. 519. (a) There is established, in the Office of Education, an Office of Libraries and Learning Resources (hereafter in this section referred to as the "Office"), through which the Commissioner shall administer all programs in the Office of Education related to assistance for, and encouragement of, libraries and information centers and education technology.

"(b) The Office shall be headed by a Director, to whom the Commissioner shall delegate his delegable functions with respect to the programs administered through the Office."

(1) provides satisfactory assurance that the applicant will expend during the fiscal year for which the basic grant is sought, from funds other than funds received under this part—

(A) for all library purposes (exclusive of construction), an amount not less than the average annual amount it expended for such purposes during the two fiscal years preceding the fiscal year for which assistance is sought under this part, and

(B) for library resources, an amount not less than the average amount it expended for such resources during the two fiscal years preceding the fiscal year for which assistance is sought under this part,

except that, if the Commissioner determines, in accordance with regulations, that there are special and unusual circumstances which prevent the applicant from making the assurances required by this clause (1), he may waive that requirement for one or both of such assurances;

(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

(3) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(20 U.S.C. 1022) Enacted Nov. 8, 1965, P.L. 89-329, Title II, sec. 202, 79 Stat. 1224; amended Nov. 3, 1966, P.L. 89-752, sec. 9, 80 Stat. 1243; amended Oct 16, 1968, P.L. 90-575, Title II, sec. 214, 82 Stat. 1037; amended June 23, 1972, P.L. 92-318, Title I, sec. 111(b)(2)(A), 86 Stat. 238; amended and redesignated June 23, 1972, P.L. 92-318, Title I, sec. 112, 86 Stat. 240.

SUPPLEMENTAL GRANTS

SEC. 203. (a) From that part of the sums appropriated pursuant to section 201 for the purposes of this part for any fiscal year which remains after making basic grants pursuant to section 202, and which is not reserved for the purposes of section 204, the Commissioner shall make supplemental grants for the purposes set forth in section 201(a)(1) to institutions of higher education (and to each branch of such institution which is located in a community different from that in which its parent institution is located, as determined in accordance with regulations of the Commissioner) and combinations of such institutions. The amount of a supplemental grant shall not exceed $20 for each full-time student (including the full-time equivalent of the number of part-time students) enrolled in each such institution (or branch), as determined pursuant to regulations of the Commissioner. A supplemental grant may be made only upon application therefor, in such form and containing such information as the Commissioner may require, which application shall—

(1) meet the application requirements set forth in section 202;

(2) describe the size and quality of the library resources of the applicant in relation to its present enrollment and any expected increase in its enrollment;

(3) set forth any special circumstances which are impeding or will impede the proper development of its library resources; and

(4) provide a general description of how a supplemental grant would be used to improve the size or quality of its library resources.

(b) The Commissioner shall approve applications for supplemental grants on the basis of basic criteria prescribed in regulations and developed after consultation with the Council created under section 205. Such basic criteria shall be such as will best tend to achieve the objectives of this part and they (1) may take into consideration factors such as the size and age of the library collection and student enrollment, and (2) shall give priority to institutions in need of financial assistance for library purposes.

(20 U.S.C. 1023) Enacted Nov. 8, 1965, P.L. 89-329, Title II, sec. 203, 79 Stat. 1225; amended Oct. 16, 1968, P.L. 90-575, Title II, sec. 212(a); amended June 23, 1972, P.L. 92-318, Title I, sec. 111(b)(2)(B), 86 Stat. 239; sec. 112(b)(2), 86 Stat. 240; and sec. 113(a), 86 Stat. 240.

SPECIAL PURPOSE GRANTS

SEC. 204. (a)(1) From the sums appropriated pursuant to section 201 for the purposes of this part for any fiscal year, the Commissioner is authorized to reserve not to exceed 25 per centum thereof for the purposes of this section.

(2) Sums received pursuant to paragraph (1) may be used to make special grants (A) to institutions of higher education (or to branches of such institutions which are located in a community different from that in which the parent institution is located, as determined in accordance with regulations of the Commissioner) which demonstrate a special need for additional library resources and which demonstrate that such additional library resources will make a substantial contribution to the quality of their educational resources, (B) to institutions of higher education (or to such branches) to meet special national or regional needs in the library and information sciences, (C) to combinations of institutions of higher education which need special assistance in establishing and strengthening joint-use facilities. Grants under this section may be

used only for books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials, and other related library materials (including necessary binding), and (D) to other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis.

(b) Grants pursuant to paragraph (2) shall be made upon application providing satisfactory assurance that (1) the applicant (or applicants jointly in the case of a combination of institutions) will expend during the fiscal year for which the grant is requested (from funds other than funds received under this part) for the same purpose as such grant an amount from such other sources equal to not less than 33⅓ per centum of such grant, and (2) in addition each such applicant will expend during such fiscal year (from such other sources) for all library purposes (exclusive of construction) an amount not less than the average annual amount it expended for such purposes during the two-year period ending June 30, 1965, or during the two fiscal years preceding the fiscal year for which the grant is requested, whichever is less.

(20 U.S.C. 1024) Enacted Nov. 8, 1965, P.L. 89-329, Title II, sec. 204, 79 Stat. 1226; amended Oct. 16, 1968, P.L. 90-575, Title II, secs. 212(b), 213, 82 Stat. 1036-1037; amended June 23, 1972, P.L. 92-318, Title I, sec. 111(b)(2)(C), 86 Stat. 239.

ADVISORY COUNCIL ON COLLEGE LIBRARY RESOURCES

SEC. 205. (a) The Commissioner shall establish in the Office of Education an Advisory Council on College Library Resources consisting of the Commissioner, who shall be Chairman, and eight members appointed, without regard to the civil service laws, by the Commissioner with the approval of the Secretary.

(b) The Advisory Council shall advise the Commissioner with respect to establishing criteria for the making of supplemental grants under section 203 and the making of special purpose grants under section 204. The Commissioner may appoint such special advisory and technical experts and consultants as may be useful in carrying out the functions of the Advisory Council.

(20 U.S.C. 1025) Enacted Nov. 8, 1965, P.L. 89-329, Title II, sec. 205, 79 Stat. 1226; subsection (c) repealed April 13, 1970, P.L. 91-230, sec. 401(h) and superseded by pt. C of title IV of P.L. 90-247, as amended. (20 U.S.C. 1233c)

ACCREDITATION REQUIREMENT FOR PURPOSES OF THIS PART

SEC. 206. For the purposes of this part, an educational institution shall be deemed to have been accredited by a nationally recognized accrediting agency or association if the Commissioner determines that there is satisfactory assurance that upon acquisition of the library resources with respect to which assistance under this part is sought, or upon acquisition of those resources and other library resources planned to be acquired within a reasonable time, the institution will meet the accreditation standards of such agency or association.

(20 U.S.C. 1026) Enacted Nov. 8, 1965, P.L. 89-329, Title II, sec. 206, 79 Stat. 1226.

LIMITATIONS

SEC. 207. No grant may be made under this part for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

(20 U.S.C. 1207) Enacted Nov. 8, 1965, P.L. 89-329, Title II, sec. 207, 79 Stat. 1227; amended June 23, 1972, P.L. 92-318, sec. 131(d)(2), 86 Stat. 260.

CONSULTATION WITH STATE AGENCY

SEC. 208. Each institution of higher education which receives a grant under this part shall periodically inform the State agency (if any) concerned with the educational activities of all institutions of higher education in the State in which such institution is located, of its activities under this part.

(20 U.S.C. 1028) Enacted Nov. 8, 1965, P.L. 89-329, Title II, sec. 208, 79 Stat. 1227.

PART B—LIBRARY TRAINING AND RESEARCH

TRAINING AND RESEARCH PROGRAMS

SEC. 221. From the amount available for grants under this part pursuant to section 201 for any fiscal year, the Commissioner shall carry out a program of making grants in accordance with sections 222 and 223. Of such amount, 66⅔ per centum shall be available for the purposes of section 222 and 33⅓ per centum shall be available for the purposes of section 223.

(20 U.S.C. 1031) Enacted June 23, 1972, P.L. 92-318, Title I, sec. 111(b)(3)(A), 86 Stat. 239.

SEC. 222. (a) The Commissioner is authorized to make grants to institutions of higher education and library organizations or agencies to assist them in training persons in librarianship. Such grants may be used by such institutions, library organizations or agencies (1) to assist in covering the cost of courses of training or study (including short term or regular session institutes) for such persons, (2) for establishing and maintaining fellowships or traineeships with stipends (including allowances for traveling, subsistence, and other expenses) for fellows and others undergoing training and their dependents, not in excess of such maximum amounts as may be prescribed by the Commissioner, and (3) for establishing, developing, or expanding programs of library and information science. Not less than 50 per centum of the grants made under this subsection shall be for the purpose of establishing and maintaining fellowships or traineeships under clause (2).

(b) The Commissioner may make a grant to an institution of higher education and library organizations or agencies only upon application by the institution and only upon his finding that such program will substantially further the objective of increasing the opportunities throughout the Nation for training in librarianship.

(20 U.S.C. 1033) Enacted Nov. 8, 1965, P.L. 89-329, Title II, sec. 223, 79 Stat. 1227; amended Oct. 16, 1968, P.L. 90-575, Title II, sec. 216, 82 Stat. 1037; amended June 23, 1972, P.L. 92-318, Title I, secs. 111(b)(3) (B) and (K); redesignated by P.L. 92-318, sec. 111 (b)(3)(D), 86 Stat. 240.

RESEARCH AND DEMONSTRATIONS RELATING TO LIBRARIES AND THE TRAINING OF LIBRARY PERSONNEL

SEC. 223. (a) The Commissioner is authorized to make grants to institutions of higher education and other public or private agencies, institutions, and organizations, for research and demonstration projects relating to the improvement of libraries or the improvement of training in librarianship, including the development of new techniques, systems, and equipment for processing, storing, and distributing information, and for the dissemination of information derived from such research and demonstrations, and, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to provide by contracts with them for the conduct of such activities; except that no such grant may be made to a private agency, organization, or institution other than a nonprofit one.

(b) The Commissioner is authorized to appoint a special advisory committee of not more than nine members to advise him on matters of general policy concerning research and demonstration projects relating to the improvement of libraries and the improvement of training in librarianship, or concerning special services necessary thereto or special problems involved therein.

(20 U.S.C. 1034) Enacted Nov. 8, 1965, P.L. 89-329, Title II, sec. 224, 79 Stat. 1228; subsec. (c) repealed Apr. 13, 1970, P.L. 91-230, sec. 401(h) and superseded by pt. C of title IV of P.L. 90-247, as amended. (20 U.S.C. 1233c.); redesignated June 23, 1972, P.L. 92-318, Title I, sec. 111(b)(3)(D), 86 Stat. 240.

PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

FINDINGS AND PURPOSE

SEC. 231. (a) The Congress finds that—

(1) education, scholarship, and research are significant to the scientific, economic, and cultural development of the Nation, and that steady advances in the social and natural sciences are essential to solve the problems of a complex society;

(2) the Nation's major research libraries are often an essential element in undergraduate education, and are essential to advanced and professional education and research; and

(3) the expansion in the scope of educational and research programs and the rapid increase in the worldwide production of recorded knowledge have placed unprecedented demands upon major research libraries, requiring programs and services that strain the capabilities of cooperative action and are beyond the financial competence of individual or collective library budgets.

(b) It is the purpose of this part to promote research and education of higher quality throughout the United States by providing financial assistance to major research libraries.

(20 U.S.C. 1041) Enacted Nov. 8, 1965, P.L. 89-329, Title II, sec. 231, 79 Stat. 1228; amended Oct. 16, 1968, P.L. 90-575, Title II, sec. 217, 218, 82 Stat. 1037-1038; amended June 23, 1972, P.L. 92-318, Title I, sec. 114, 86 Stat. 240; amended Oct. 12, 1976, P.L. 94-482, Title I, Part B, sec. 107, 90 Stat. 2090.

APPROPRIATIONS AUTHORIZED

Sec. 232. There are authorized to be appropriated $10,000,000 for the fiscal year 1977, $15,000,000 for fiscal year 1978, and $20,000,000 for fiscal year 1979.

(20 U.S.C. 1042) Enacted June 23, 1972, P.L. 92-318, Title I, sec. 115(a), 86 Stat. 241; amended Oct. 12, 1976, P.L. 94-482, Title I, Part B, sec. 107, 90 Stat. 2090.

ELIGIBILITY FOR ASSISTANCE

Sec. 233. For the purposes of this part, the term "major research library" means a public or private nonprofit institution, including the library resources of an institution of higher education, and independent research library, or a State or other public library, having library collections which are available to qualified users and which—

(1) make a significant contribution to higher education and research;

(2) are broadly based and are recognized as having national or international significance for scholarly research;

(3) are of a unique nature, and contain material not widely available; and

(4) are in substantial demand by researchers and scholars not connected with that institution.

(b) No institution receiving a grant under this part for any fiscal year may be eligible to receive a basic grant under section 202 of this title for that year.

(20 U.S.C. 1043) Enacted Oct. 12, 1976, P.L. 94-482, Title I, Part B, sec. 107, 90 Stat. 2090.

EQUITABLE DISTRIBUTION OF ASSISTANCE

Sec. 234. The Commissioner shall establish criteria designed to achieve regional balance in the allocation of funds under this part which is reasonable in light of the requirements of section 233.

(20 U.S.C. 1044) Enacted Oct. 12, 1976, Title I, Part B, sec. 107, 90 Stat. 2090.

LIMITATIONS

Sec. 235. (a) No grant may by made under this part for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

(b) Not more than 150 institutions may receive a grant under this part.

(20 U.S.C. 1045) Enacted Oct. 12, 1976, Title I, Part B, sec. 107, 90 Stat. 2091.

CONSULTATION WITH STATE AGENCY

SEC. 236. Each institution receiving a grant under this part shall periodically inform the State Library administrative agency and the State agency, if any, concerned with the educational activities of all institutions of higher education in the State in which such institution is located, of its activities under this part.

(20 U.S.C. 1046) Enacted Oct. 12, 1976, Title I, Part B, sec. 107, 90 Stat. 2091.

TITLE III—STRENGTHENING DEVELOPING INSTITUTIONS

AUTHORIZATION

SEC. 301. (a) The Commissioner shall carry out a program of special assistance to strengthen the academic quality of developing institutions which have the desire and potential to make a substantial contribution to the higher education resources of the Nation but which are struggling for survival and are isolated from the main currents of academic life.

(b)(1) For the purpose of carrying out this title, there are authorized to be appropriated $120,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1979.

(2) Of the sums appropriated pursuant to this subsection for any fiscal year, 76 per centum shall be available only for carrying out the provisions of this title with respect to developing institutions which plan to award one or more bachelor's degrees during such year.

(3) The remainder of the sums so appropriated shall be available only for carrying out the provisions of this title with respect to developing institutions which do not plan to award such a degree during such year.

(20 U.S.C. 1051) Enacted June 23, 1972, P.L. 92-318, Title I, sec. 121(a), 86 Stat. 241; amended Oct. 12, 1976, P.L. 94-482, Title I, Part C, sec. 111, 90 Stat. 2091.

ELIGIBILITY FOR SPECIAL ASSISTANCE

SEC. 302. (a)(1) For the purposes of this title, the term "developing institution" means an institution of higher education in any State which—

(A) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or is a junior or community college;

(B) is accredited by a nationally recognized accrediting agency or association determined by the Commissioner to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

(C) except as is provided in paragraph (2), has met the requirement of clauses (A) and (B) during the five academic years preceding the academic year for which it seeks assistance under this title; and

(D) meets such other requirements as the Commissioner shall prescribe by regulation, which requirements shall include at least a determination that the institution—

(i) is making a reasonable effort to improve the quality of its teaching and administrative staffs and of its student services; and

(ii) is, for financial or other reasons, struggling for survival and isolated from the main currents of academic life.

(2) The Commissioner is authorized to waive the requirements set forth in clause (C) of paragraph (1) in the case of applications for grants under this title by institutions located on or near an Indian reservation or a substantial population of Indians if the Commissioner determines such action will increase higher education for Indians. The Commissioner is authorized to waive three years of the requirements set forth in clause (C) of paragraph (1) in the case of applications for grants under this title by institutions if the Commissioner determines such action will substantially increase higher education for Spanish-speaking people.

(b) Any institution desiring special assistance under the provisions of this title shall submit an application for eligibility to the Commissioner at such time, in such form, and containing such information, as may be necessary to enable the Commissioner to evaluate the need of the applicant for such assistance and to determine its eligibility to be a developing institution for the purposes of this title. The Commissioner shall approve any application for eligibility under this subsection which indicates that the applicant is a developing institution meeting the requirements set forth in subsection (a).

(c) For the purposes of clause (A) of paragraph (1) of subsection (a) of this section, the term "junior or community college" means an institution of higher education—

(1) which does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree);

(2) which admits as regular students only persons having a certificate of graduation from a school providing secondary education (or the recognized equivalent of such a certificate); and

(3) which does—

(A) provide an educational program of not less than two years which is acceptable for full credit toward such a degree, or

(B) offer a two-year program in engineering, mathematics, or the physical or biological sciences, which program is designed to prepare a student to work as a technician and at the semiprofessional level in engineering, scientific, or other technological fields, which fields require the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(20 U.S.C. 1052) Enacted June 23, 1972, P.L. 92-318, Title I, sec. 121 (a), 86 Stat. 241, 242; amended August 21, 1974, P.L. 93-380, sec. 832, 88 Stat. 603; amended October 12, 1976, P.L. 94-482, Title I, Part C, sec. 112, 90 Stat. 2091.

ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

SEC. 303. (a) There is hereby established an Advisory Council on Developing Institutions (in this title referred to as the "Council") consisting of nine members appointed by the Commissioner with the approval of the Secretary.

(b) The Council shall, with respect to the program authorized by this title, carry out the duties and functions specified by part C of the General Education Provisions Act and, in particular, it shall assist the Commissioner—

(1) in identifying developing institutions through which the purposes of this title may be achieved; and

(2) in establishing the priorities and criteria to be used in making grants under section 304(a).

(20 U.S.C. 1053) Enacted June 23, 1972 P.L. 92-318, Title I, sec. 121(a), 86 Stat. 242, 243.

USES OF FUNDS; COOPERATIVE ARRANGEMENTS, NATIONAL TEACHING FELLOWSHIP, AND PROFESSORS EMERITUS

SEC. 304. (a) The Commissioner is authorized to make grants and awards, in accordance with the provisions of this title, for the purpose of strengthening developing institutions. Such grants and awards shall be used solely for the purposes set forth in subsection (b).

(b) Funds appropriated pursuant to section 301(b) shall be available for—

(1) grants to institutions of higher education to pay part of the cost of planning, developing, and carrying out cooperative arrangements between developing institutions and other institutions of higher education, and between developing institutions and other organizations, agencies, and business entities, which show promise as effective measures for strengthening the academic program and the administrative capacity of developing institutions, including such projects and activities as—

(A) exchange of faculty or students, including arrangements for bringing visiting scholars to developing institutions,

(B) faculty and administration improvement programs, utilizing training, education (including fellowships leading to advanced degrees), internships, research participation, and other means,

(C) introduction of new curricula and curricular materials,

(D) development and operation of cooperative education programs involving alternate periods of academic study and business or public employment, and

(E) joint use of facilities such as libraries or laboratories, including necessary books, materials, and equipment;

(2) National Teaching Fellowships to be awarded by the Commissioner to highly qualified graduate students and junior faculty members of institutions of higher education for teaching at developing institutions; and

(3) Professors Emeritus Grants to be awarded by the Commissioner to professors retired from active service at institutions of higher education to encourage them to teach or to conduct research at developing institutions.

(c)(1) An application for assistance for the purposes described in subsection (b)(1) shall be approved only if it—

(A) sets forth a program for carrying out one or more of the activities described in subsection (b)(1), and sets forth such policies and procedures for the administration of the program as will insure the proper and efficient operation of the program and the accomplishment of the purposes of this title;

(B) sets forth such policies and procedures as will insure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds be made available for the purposes of the activities described in subsection (b)(1), and in no case supplant such funds;

(C) sets forth policies and procedures for the evaluation of the effectiveness of the project or activity in accomplishing its purpose;

(D) provides for such fiscal control and fund acccounting procedures as may be necessary to insure proper disbursement of and accounting for funds made available under this title to the applicant; and

(E) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this title, and for keeping such records and affording such access thereto, as he may find necessary to assure the correctness and verification of such reports.

The Commissioner shall, after consultation with the Council, establish by regulation criteria as to eligible expenditures for which funds from grants for cooperative arrangements under clause (1) of subsection (b) may be used, which criteria shall be so designed as to prevent the use of such funds for purposes not necessary to the achievement of the purposes for which the grant is made.

(2)(A) Applications for awards described in clauses (2) and (3) of subsection (b) may be approved only upon a finding by the Commissioner that the program of teaching or research set forth therein is reasonable in the light of the qualifications of the applicant and of the educational needs of the institution at which the applicant intends to teach.

(B) No application for a National Teaching Fellowship or a Professors Emeritus Grant shall be approved for an award of such a fellowship or grant for a period exceeding two academic years, except that the award of a Professors Emeritus Grant may be for such period, in addition to such two-year period of award, as the Commissioner, upon the advice of the Council, may determine in accordance with policies of the Commissioner set forth in regulations.

(C) Each person awarded a National Teaching Fellowship or a Professors Emeritus Grant shall receive a stipend for each academic year of teaching (or, in the case of a recipient of a Professors Emeritus Grant, research) as determined by the Commissioner upon the advice of the Council, plus an additional allowance for each such year for each dependent of such person. In the case of National Teaching Fellowships, such allowance may not exceed $7,500, plus $400 for each dependent.

(20 U.S.C. 1054) Enacted June 23, 1972, P.L. 92-318, Title I, sec. 121(a), 86 Stat. 243, 244.

ASSISTANCE TO DEVELOPING INSTITUTIONS UNDER OTHER PROGRAMS

SEC. 305. (a) Each institution which the Commissioner determines meets the criteria set forth in section 302 (a) shall be eligible for waivers in accordance with subsection (b).

(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a developing institution for assistance under any programs specified in paragraph (2), the Commissioner is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from institutions which are not developing institutions.

(2) The provisions of this section shall apply to any program authorized by title II, IV, VI, or VII of this Act.

(c) The Commissioner shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for the program for any fiscal year.

(20 U.S.C. 1055) Enacted June 23, 1972, P.L. 92-318, Title I, sec. 121(a), 86 Stat. 244.

LIMITATION

SEC. 306. None of the funds appropriated pursuant to section 301(b)(1) shall be used for a school or department of divinity or for any religious worship or sectarian activity.

(20 U.S.C. 1056) Enacted June 23, 1972, P.L. 92-318, Title I, sec. 121(a), 86 Stat. 245.

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION

SEC. 401. (a) It is the purpose of this part, to assist in making available the benefits of postsecondary education to qualified students in institutions of higher education by—

(1) providing basic educational opportunity grants (hereinafter referred to as "basic grants") to all eligible students;

(2) providing supplemental educational opportunity grants (hereinafter referred to as "supplemental grants") to those stu-

dents of exceptional need who, for lack of such a grant, would be unable to obtain the benefits of a postsecondary education;

(3) providing for payments to the States to assist them in making financial aid available to such students;

(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

(5) providing assistance to institutions of higher education.

(b) The Commissioner shall, in accordance with subparts 1, 2, 3, 4 and 5, carry out programs to achieve the purposes of this part.

(20 U.S.C. 1070) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 247-248; amended June 23, 1972, P.L. 92-318, sec. 1001(c), 86 Stat. 381.

SUBPART 1—BASIC EDUCATIONAL OPPORTUNITY GRANTS

BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS; APPLICATIONS

SEC. 411. (a)(1) The Commissioner shall, during the period beginning July 1, 1972, and ending September 30, 1979, pay to each student who has been accepted for enrollment in, or is in good standing at, an institution of higher education (according to the prescribed standards, regulations, and practices of that institution) for each academic year during which that student is in attendance at that institution, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2).

(2)(A)(i) The amount of the basic grant for a student eligible under this subpart for any academic year shall be $1,800,[1] less an amount equal to the amount determined under paragraph (3) to be the expected family contribution with respect to that student for that year.

(ii) In any case where a student attends an institution of higher education on less than a full-time basis during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Commissioner for the purposes of this division. Such schedule of reductions shall be established by regulation and published in the Federal Register not later than February 1 of each year.

(B)(i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 50 per centum of the actual cost of attendance at the institution at which the student is in attendance for that year.

(ii) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the actual cost of attendance at the institution at which that student is in attendance. If with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceeds the actual cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the actual cost of attendance at such institution.

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[1] Section 121 (b)(2) of Part D of Title I of Public Law 94-482 provides that the $1,800 figure "shall be effective for academic year 1978-1979 and thereafter."

(iii) No basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this paragraph for any academic year is less than $200. Pursuant to criteria established by the Commissioner by regulation, the institution of higher education at which a student is in attendance may award a basic grant of less than $200 upon a determination that the amount of the basic grant for that student is less than $200 because of the requirement of division (i) and that, due to exceptional circumstances, this reduced grant should be made in order to enable the student to benefit from postsecondary education.

(iv) For the purpose of this subparagraph and subsection (b) the term "actual cost of attendance" means, subject to regulations of the Commissioner, the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and an allowance for such other expenses as the Commissioner determines by regulation to be reasonably related to attendance at the institution at which the student is in attendance.

(3)(A)(i) Not later than July 1 of each calendar year, the Commissioner shall publish in the Federal Register a schedule of expected family contributions for the academic year which begins after July 1 of the calendar year which succeeds such calendar year for various levels of family income, which, except as is otherwise provided in division (ii), together with any amendments thereto, shall become effective July 1 of the calendar year which succeeds such calendar year. During the thirty-day period following such publication the Commissioner shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule.

(ii) The schedule of expected family contributions required by division (i) for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or the House of Representatives adopts, prior to the first day of October next following the submission of said schedule as required by this division, a resolution of disapproval of such schedule, the Commissioner shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution and shall become effective, together with any amendments thereto, with respect to grants to be made on or after the first day of July next following. The Commissioner shall publish together with such new schedule, a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.

(B)(i) For the purposes of this paragraph and subsection (b), the term "family contribution" with respect to any student means the amount which the family of that student may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination under subparagraph (A) of paragraph (2) is made, as determined in accordance with regulations. In promulgating such regulations, the Commissioner shall follow the basic criteria set forth in division (ii) of this subparagraph.

(ii) The basic criteria to be followed in promulgating regulations with respect to expected family contributions are as follows:

(I) The amount of the effective income of the student or the effective family income of the student's family.

(II) The number of dependents of the family of the student.

(III) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

(IV) The amount of the assets of the student and those of the student's family.

(V) Any unusual expenses of the student or his family, such as unusual medical expenses, and those which may arise from a catastrophe.

(VI) Any educational expenses of other dependent children in the family.

(iii) For the purposes of clause (I) of division (ii), the term "effective family income" with respect to a student, and including any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half any amount paid the student under chapters 34 and 35 of title 38, United States Code, means the annual adjusted family income, as determined in accordance with regulations prescribed by the Commissioner, received by the parents or guardian of that student (or the person or persons having an equivalent relationship to such student) minus Federal income tax paid or payable with respect to such income.

(iv) In determining the expected family contribution under this subparagraph for any academic year after academic year 1978-1979, an assessment rate of not more than 10.5 per centum shall be applied to parental discretionary income.

(C) The Commissioner shall promulgate special regulations for determining the expected family contribution and effective family income of a student who is determined (pursuant to regulations of the Commissioner) to be independent of his parents or guardians (or the person or persons having an equivalent relationship to such student). Such special regulations shall be consistent with the basic criteria set forth in division (ii) of subparagraph (B). In addition, such regulations shall—

(i) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

(ii) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under division (i) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student; and

(iii) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for dependent students and for independent students who have dependents.

(4)(A) The period during which a student may receive basic grants shall be the period required for the completion of the undergraduate course of study being pursued by that student at the institution at which the student is in attendance, except that such period may not exceed four academic years unless—

(i) the student is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five academic years; or

(ii) the student is, or will be, unable to complete a course of study within four academic years because of a requirement of the institution of such course of study that the student enroll in a noncredit remedial course of study;

in either which case such period may be extended for not more than one additional academic year.

(B) For the purposes of clause (ii) of subparagraph (A), a "noncredit remedial course of study" is a course of study for which no credit is given toward an academic degree, and which is designed to increase the ability of the student to engage in an undergraduate course of study leading to such a degree.

(b)(1) The Commissioner shall from time to time set dates by which students must file applications for basic grants under this subpart.[1]

(2) Each student desiring a basic grant for any year must file an application therefor containing such information and assurances as the Commissioner may deem necessary to enable him to carry out his functions and responsibilities under this subpart.

(3)(A) Payments under this section shall be made in accordance with regulations promulgated by the Commissioner for such purpose, in such manner as will best accomplish the purposes of this section.

(B)(i) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to satisfy fully all entitlements under this subpart, the amount paid with respect to each such entitlement shall be—

(I) the full amount in the case of any entitlement which exceeds $1,600;

(II) in the case of any entitlement which exceeds $1,200 but does not exceed $1,600, 90 per centum thereof;

(III) in the case of any entitlement which exceeds $1,000 but does not exceed $1,200, 75 per centum thereof;

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[1] Section 4 of P.L. 94-43 provides as follows:

"Funds appropriated for making payments of basic educational opportunity grants, during fiscal year 1975, under subpart 1 of part A of title IV of the Higher Education Act of 1965 to eligible students in accordance with the payment schedule in effect under section 411(b) for fiscal year 1975 which are in excess of the amount paid under such section prior to the end of such fiscal year shall remain available for payments under such section during fiscal year 1976."

(IV) in the case of any entitlement which exceeds $800 but does not exceed $1,000, 70 per centum thereof;

(V) in the case of any entitlement which exceeds $600 but does not exceed $800, 65 per centum thereof; and

(VI) in the case of any entitlement which does not exceed $600, 50 per centum thereof.

(ii) If, during any fiscal year, funds available for making payments under this subpart exceed the amount necessary to make the payments prescribed in division (i), such excess shall be paid with respect to each entitlement under this subpart in proportion to the degree to which that entitlement is unsatisfied.

(iii) In the event that, at the time when payments are to be made pursuant to this subparagraph (B), funds available therefor are insufficient to pay the amounts set forth in division (i), the Commissioner shall pay with respect to each entitlement an amount which bears the same ratio to the appropriate amount set forth in division (i) as the total amount of funds so available at such time for such payments bears to the amount necessary to pay the amounts indicated in division (i) in full.

(iv) No method of computing or manner of distribution of payments under this subpart shall be used which is not consistent with this subparagraph.

(v) In no case shall a payment under this subparagraph be made if the amount of such payment after application of the provisions of this subparagraph is less than $50.

(4)(A) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 per centum or less, then all of excess funds shall remain available for making payments under this subpart during the next suceeding fiscal year.

(B) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 per centum, then all of such funds shall remain available for making such payments but payments may be made under this division only with respect to entitlements for that fiscal year.

(5) No payment may be made on the basis of entitlements established under this subpart during any fiscal year ending September 30, 1980, if, for such fiscal year—

(A) the appropriation for making grants under subpart 2 of this part does not at least equal $370,000,000;

(B) the appropriation for work-study payments under section 441 of this title does not at least equal $500,000,000; and

(C) the appropriation for capital contributions to student loan funds under part E of this title does not at least equal $286,000,000.

(c) Any institution of higher education which enters into an agreement with the Commissioner to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Commissioner.

(d)(1) In addition to payments made with respect to entitlements under this subpart, each institution of higher education shall be eligible to receive from the Commissioner the payment of $10 per academic year for each student enrolled in that institution who is receiving a basic grant under this subpart for that year. Payment received by an institution under this subsection shall be used first to carry out the provisions of section 493A of this Act and then for such additional administrative costs as the institution of higher education determines necessary.

(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection. If the sums appropriated for any fiscal year for making payments under this subsection are not sufficient to pay in full the amounts provided for in paragraph (1), then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(e)(1) The Commissioner shall enter into agreements with not less than two nor more than five States for the processing by such States of all applications of their residents (through an instrumentality or agent selected by such State) for grants made under this subpart for the academic year beginning after July 1, 1977, on condition that any State grants which are subsidized in part by Federal funds, during the period for which State processing of basic education opportunity grant applications is carried out by the State, will be available to eligible State residents for use at the majority of educational institutions outside that State which are eligible institutions under subpart 1 of this part. No later than ninety days after termination of the agreements, the Commissioner shall report to the Congress on the experience with multiple State processing, including its impact on the delivery of student aid to students, and including recommendations concerning whether the option of processing applications for grants under this subpart should be made available to all States having the capacity to do so.

(2) Any State entering into an agreement with the Commissioner shall—

(A) not be required, without the State's consent, to perform services in excess of those required of any private agency or organization with whom the Commissioner has a contract to perform similar application processing, except such additional services as may be necessary to produce processing services of a type and quality equivalent to those produced, through the same or other means; and

(B) be required to determine student eligibility for awards under this subpart solely on the basis of criteria set forth in this subpart and regulations promulgated by the Commissioner pursuant thereto.

(3) The Commissioner shall promulgate such regulations as may be necessary—

(A) to determine a fair per unit fee for application processing which, if the Commissioner has a contract with an agency or organization to perform similar application processing, shall be no more than the amount paid by the Commissioner per application for the same academic year to any such agency or organization; and

(B) to otherwise carry out the purposes of this subsection.

(4) Nothing contained in this section or other enactments of law shall be construed to prohibit any eligible State under subsection (c) of this section from—

(A) employing student application forms that solicit information required for both the determination of eligibility under this subpart and for the determination of eligibility under the postsecondary educational grant programs of such State; and

(B) coordinating the eligibility announcements of State postsecondary educational grants and grants under this subpart.

(5) No State which enters into an agreement with the Commissioner may impose any fee or other charge upon a student for processing of the student's application for a grant under this subpart.

(20 U.S.C. 1070a) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1). 86 Stat. 247-251; amended June 30, 1976, P.L. 94-328, sec. 2(f), 90 Stat. 727; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 121, 90 Stat. 2091, 2092, 2093, 2094; amended June 15, 1977, P.L. 95-43, sec. 1(a)(5)(A), (a)(5)(B), 91 Stat. 213; amended November 1, 1978, P.L. 95-566, sec. 2, 92 Stat. 2402, 2403. Section 411(a)(3)(B)(iv), the last sentence of section 411(a)(3)(C), and section 411(b)(3)(B)(i) are effective with respect to periods of enrollment beginning on or after August 1, 1979.

Subpart 2—Supplemental Educational Opportunity Grants

PURPOSE; APPROPRIATIONS AUTHORIZED

Sec. 413A. (a) It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who, for lack of financial means, would be unable to obtain such benefits without such a grant.

(b)(1) For the purpose of enabling the Commissioner to make payments to institutions of higher education which have made agreements with the Commissioner in accordance with section 413C(b), for use by such institutions for payments to undergraduate students for the initial academic year of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1979. Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (2).

(2) In addition to the sums authorized to be appropriated by paragraph (1), there are authorized to be appropriated such sums as may be necessary for payment to institutions of higher education for use by such institutions for making continuing supplemental grants under this subpart, except that no appropriation may be made pursuant to this paragraph for any fiscal year beginning more than three years after the last fiscal year for which an appropriation is authorized under paragraph (1). Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (1).

(3) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of

the fiscal year succeeding the fiscal year for which they were appropriated.

(4) For the purposes of this subsection, payment for the first year of a supplemental grant shall not be considered as an initial year payment if the grant was awarded for the continuing education of a student who—

(A) had been previously awarded a supplemental grant under this subpart (whether by another institution or otherwise), and

(B) had received payment for any year of that supplemental grant.

(20 U.S.C. 1070b) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 251, 252; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 122(a), 90 Stat. 2094.

AMOUNT AND DURATION OF GRANTS

SEC. 413B. (a)(1) From the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount determined pursuant to paragraph (2).

(2)(A)(i) The amount of the payment to any students pursuant to paragraph (1) shall be equal to the amount determined by the institution to be needed by that student to enable him to pursue a course of study at the institution, except that such amount shall not exceed—

(I) $1,500, or

(II) one-half the sum of the total amount of student financial aid provided to such student by such institution,

whichever is the lesser.

(ii) No student shall be paid during all the academic years he is pursuing his undergraduate course of study at one or more institutions of higher education in excess of $4,000 or in the case of any student to whom the provisions of subsection (b)(1)(B) apply, $5,000.

(iii) For the purposes of clause (II) of division (i), the term "student financial aid" includes assistance payments to the student under subpart 1 of this part and parts C and E of this title, and any assistance provided to a student under any scholarship program estimated by a State or a private institution or organization, as determined in accordance with regulations, shall be deemed to be aid provided such student by the institution.

(B) If the amount determined under division (i) of subparagraph (A) with respect to a student for any academic year is less than $200, no payment shall be made to that student for that year.

(C) Subject to subparagraphs (A) and (B), the Commissioner shall prescribe, for the guidance of institutions, basic criteria and schedules for the determination of the amount of need to be determined under division (i) of subparagraph (A). Such criteria and schedules shall take into consideration the objectives of limiting assistance under this subpart to students of financial need, and such other factors related to determining the need of students for financial assistance as the Commissioner deems relevant but such criteria or schedules shall not disqualify an applicant on account of his earned income if income from other sources in the amount of such earned income would not disqualify him.

(b)(1)(A) A student eligible for a supplemental grant may be awarded such a grant under this subpart for each academic year of the period required for completion by the recipient of his undergraduate course of study in the institution of higher education from which he received such grant.

(B) A student may not receive supplemental grants under this subpart for a period of more than four academic years, except that in the case of a student—

(i) who is pursuing a course of study leading to a first degree in a program of study which is designed by the institution offering it to extend over five academic years, or

(ii) who is because of his particular circumstances determined by the institution to need an additional year to complete a course of study normally requiring four academic years,

such period may be extended for not more than one additional academic year.

(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if—

(A) that student is maintaining satisfactory progress in the course of study he is pursuing, according to the standards and practices of the institution awarding the grant, and

(B) that student is devoting at least half-time to that course of study, during the academic year, in attendance at that institution.

Failure to be in attendance at the institution during vacation periods or periods of military service, or during other periods during which the Commissioner determines, in accordance with regulations, that there is good cause for his nonattendance, shall not render a student ineligible for a supplemental grant; but no payments may be made to a student during any such period of failure to be in attendance or period of nonattendance.

(20 U.S.C. 1070b-1) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 252, 253.

SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

SEC. 413C. (a)(1) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which has made an agreement with the Commissioner pursuant to subsection (b), if the individual makes application at the time and in the manner prescribed by that institution, in accordance with regulations of the Commissioner.

(2) From among those who are eligible for supplemental grants through an institution which has an agreement with the Commissioner under subsection (b) for each fiscal year, the institution shall, in accordance with such agreement under subsection (b), and within the amount allocated to the institution for that purpose for that year under section 413D(b) select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them. An institution shall not award a supplemental grant to an individual unless it determines that—

(A) he has been accepted for enrollment as an undergraduate student at such institution or, in the case of a student already attending such institution, is in good standing there as an undergraduate;

(B) he shows evidence of academic or creative promise and capability of maintaining good standing in this course of study;

(C) he is of exceptional financial need; and

(D) he would not, but for a supplemental grant, be financially able to pursue a course of study at such institution.

For the purposes of clause (C) of this paragraph, in determining financial need, the expected family contribution shall be considered to be the contribution expected in the specific circumstances of the student as determined by the student financial aid officer at the institution in accordance with criteria promulgated by the Commissioner. Any calculation of the ability of a family to contribute shall include consideration of (i) family assets which should reasonably be available for such purpose, (ii) the number of children in the family, (iii) the number of children attending institutions of higher education, (iv) any catastrophic illness in the family, (v) any educational expenses of other dependent children in the family, and (vi) other circumstances affecting the student's financial need.

(b) An institution of higher educatin which desires to obtain funds for supplemental grants under this subpart shall enter into an agreement with the Commissioner. Such agreement shall—

(1) provide that funds received by the institution under this subpart will be used by it solely for the purposes specified in, and in accordance with, the provisions of this subpart and of section 463;

(2) provide that, in determining whether an individual meets the requirements of clause (C) of paragraph (2) of subsection (a), the institution will—

(A) consider the source of such individual's income and that of any individual or individuals upon whom he relies primarily for support, and

(B) make appropriate review of the assets of the student and of such individuals;

(3) provide that the institution, in cooperation with other eligible institutions where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need, and to encourage them to continue their education beyond secondary school through such programs and activities as—

(A) establishing or strengthening close working relationships with secondary school principals and guidance and counseling personnel, with a view toward motivating students to complete secondary school and to pursue postsecondary school educational opportunities, and

(B) making, to the extent feasible, conditional commitments for student financial aid by such institution to qualified secondary school students, who but for such grants would be unable to obtain the benefits of higher education, with special emphasis on students enrolled in grade 11 or lower grades who show evidences of academic or creative promise;

(4) provide that the institution will meet the requirements of section 494;

(5) include provisions designed to make grants under this subpart reasonably available, to the extent of available funds, to all eligible students in attendance at the institution;

(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this subpart.

(20 U.S.C. 1070b-2) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 253, 254; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 122(b), 90 Stat. 2094.

APPORTIONMENT AND ALLOCATION OF FUNDS

SEC. 413D. (a)(1)(A) From 90 per centum of the sums appropriated pursuant to section 413A(b)(1) for any fiscal year, the Commissioner shall apportion to each State an amount which bears the same ratio to such sums as the number of persons enrolled full-time and the full-time equivalent of the number of persons enrolled part time in institutions of higher education in such State bears to the total number of such persons in all States. The remainder of the sums so appropriated shall be apportioned among the States by the Commissioner in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sums so appropriated among the States which will most effectively carry out the purpose of this subpart, except that where any State's apportionment under the first sentence for a fiscal year is less than its allotment under the first sentence of section 401(b) of this act for the fiscal year ending June 30, 1972, before he makes any other apportionments under this sentence, the Commissioner shall apportion sufficient additional sums to such State under this sentence to make the State's apportionment for that year under this paragraph equal to its allotment for the fiscal year ending June 30, 1972, under such first sentence. Sums apportioned to a State under the preceding sentence shall be consolidated with, and become a part of, its apportionment from the same appropriation under the first sentence of this paragraph.

(B) If the Commissioner determines that the sums apportioned to any State under subparagraph (A) for any fiscal year exceed the aggregate of the amounts that he determines to be required under subsection (b) for that fiscal year for institutions of higher education in that State, the Commissioner shall reapportion such excess, from time to time, on such date or dates as he shall fix, to other States in such manner as the Commissioner determines will best assist in achieving purposes of this subpart.

(2) Sums appropriated pursuant to section 431A(b)(2) for any fiscal year shall be apportioned among the States in such manner as the Commissioner determines will best achieve the purposes for which such sums were appropriated.

(b)(1)(A) The Commissioner shall, from time to time, set dates before which institutions in any State must file applications for allocation, to such institutions, of supplemental grant funds from the apportionment to that State (including any reapportionment thereto) for any fiscal year pursuant to subsection (a)(1).

(B)(i) From the sums apportioned (or reapportioned) to any State, the Commissioner shall allocate amounts to institutions which have submitted applications pursuant to subparagraph (A).

(ii) Allocations under division (i) by the Commissioner to such institutions shall be made in accordance with equitable criteria established by the Commissioner by regulation. Such criteria shall be designed to achieve such distribution of supplemental grant funds among such institutions within a State as will most effectively carry out the purposes of this subpart.

(2) The Commissioner shall, in accordance with regulations, allocate to such institutions in any State, from funds apportioned or reapportioned pursuant to subsection (a)(2), funds to be used as the supplemental grants specified in section 413A(b)(2).

(3) Payments shall be made from allocations under this subsection as needed.

(20 U.S.C. 1070b-3) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 254, 255.

SUBPART 3—GRANTS TO STATES FOR STATE STUDENT INCENTIVES

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 415A. (a) It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students in attendance at institutions of higher education.

(b)(1) There are hereby authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1979, for payments to the States for grants to students who have not previously been awarded such grants.

(2) In addition to the sums authorized to be appropriated pursuant to paragraph (1), there is authorized to be appropriated such sums as may be necessary for making payments to States to continue their grants to students made with incentive grants received by such States for previous years pursuant to paragraph (1), and to make bonus allotments to States pursuant to section 415E.

(3) Sums appropriated pursuant to paragraphs (1) and (2) for any fiscal year shall remain available for payments to States for the award of student grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

(4) For the purpose of this subsection, a payment on the first year of a student grant with respect to any student who has not been awarded a grant from appropriations pursuant to paragraph (1) during any previous year shall be considered, subject to regulations of the Commissioner, an initial award to be paid from appropriations pursuant to paragraph (1).

(20 U.S.C. 1070c) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 255, 256; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 123(a) and 123(c)(1), 90 Stat. 2094; amended June 15, 1977, 95-43, sec. 1(b)(3), 91 Stat. 218.

ALLOTMENT AMONG STATES

SEC. 415B. (a)(1)(A) From the sums appropriated pursuant to section 415A(b)(1) for any fiscal year, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the number of students in attendance at institutions of higher education in such State bears to the total number of such students in such attendance in all the States.

(B) For the purposes of this paragraph, the number of students in attendance at institutions of higher education in a State and in all the States shall be determined by the Commissioner for the most recent year for which satisfactory data are available to him.

(2) The amount of any State's allotment under paragraph (1) for any fiscal year which the Commissioner determines will not be required for such fiscal year for the State student grant incentive program of that State shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year for carrying out the State plan; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 415A(b)(1) shall be deemed part of its allotment under paragraph (1) for such year.

(b) Subject to the provisions of section 415E, sums appropriated pursuant to section 415(A)(b)(2) for any fiscal year shall be allotted among the States in such manner as the Commissioner determines will best achieve the purposes for which such sums were appropriated.

(c) The Commissioner shall make payments for continuing incentive grants only to those States which continue to meet the requirements of section 415C(b)(1), (2), (3), and (5).

(20 U.S.C. 1070c-1) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 256; amended October 12, 1976, P.L. 94-482, Title I, Part D, Sec. 123 (c)(2), 90 Stat. 2094.

APPLICATIONS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS

SEC. 415C. (a) A State which desires to obtain a payment under this subpart for any fiscal year shall submit an application therefor through the State agency administering its program of student grants, at such time or times, and containing such information as may be required by, or pursuant to, regulation for the purpose of enabling the Commissioner to make the determinations required under this subpart.

(b) From a State's allotment under this subpart for any fiscal year the Commissioner is authorized to make payments to such State for paying 50 per centum of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency;

(2) provides that such grants will be in amounts not in excess of $1,500 per academic year for attendance on a full-time basis as an undergraduate at an institution of higher education;

(3) provides for the selection of recipients of such grants on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Commissioner;

(4) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions

of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State;

(5) provides for the payment of the non-Federal portion of such grants from funds supplied by such State which represent an additional expenditure for such year by such State for grants for students attending institutions of higher education over the amount expended by such State for such grants, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart; and

(6) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this subpart.

(c) Upon his approval of any application for a payment under this subpart, the Commissioner shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the student incentive grants covered by such application. The Commissioner shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as he may determine. The Commissioner's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants with respect to which such reservation was made, and in the event of an upward revision of such estimated cost approved by him he may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

(220 U.S.C. 1070c-2) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 256, 257; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 123 (b), 90 Stat. 2094; amended June 15, 1977, P.L. 95-43, sec. 1(a)(6), 91 Stat. 213; amended November 1, 1978, P.L. 95-566, sec. 3, 92 Stat. 2403.

ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

SEC. 415D. (a)(1) The Commissioner shall not finally disapprove any application for a State program submitted under section 415C, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions, the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b)(1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

(20 U.S.C. 1070c-3) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 257, 258.

BONUS ALLOTMENTS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS

SEC. 415E. Whenever the sum appropriated pursuant to this subpart for any fiscal year is in excess of $75,000,000 the Commissioner shall allot, from 33⅓ per centum of such excess sums, to each State operating through an agency of the State or through a nonprofit private institution or organization designated by a State, a program under section 428(b) an amount which bears the same ratio to such sum as the number of students in attendance at institutions of higher education in such State bears to the total number of students in such attendance in all such States.

(20 U.S.C. 1070c-4) Enacted October 12, 1976, P.L. 94-482, Title I, Part D, sec. 123(c)(3), 90 Stat. 2094; amended June 15, 1977, P.L. 95-43, sec. 1(a)(7), 91 Stat. 213.

SUBPART 4—SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

PROGRAM AUTHORIZATION

SEC. 417A. (a) The Commissioner shall, in accordance with the provisions of this subpart, carry out a program designed to identify qualified students from low-income families, to prepare them for a program of postsecondary education, and to provide special services for such students who are pursuing programs of postsecondary education.

(b) For the purpose of enabling the Commissioner to carry out this subpart, there are authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to July 1, 1975, and $200,000,000 for each of the fiscal years ending prior to October 1, 1979.

(20 U.S.C. 1070d) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 258; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 124(a), 90 Stat. 2094.

AUTHORIZED ACTIVITIES

SEC. 417B. (a) The Commissioner is authorized (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)) to make grants to, and contracts with, institutions of higher education, including institutions with vocational and career education programs, combinations of such institutions, public and private agencies and organizations (including professional and scholarly associations), and, in exceptional cases, secondary schools and secondary vocational schools, for planning, developing, or carrying out within the States one or more of the services described in subsection (b) of this section.

(b) Services provided through grants and contracts under this subpart shall be specifically designed to assist in enabling youths from low-income families who have academic potential, but who may lack adequate secondary school preparation, who may be physically handicapped, or who may be disadvantaged because of severe rural isolation, to enter, continue, or resume programs of postsecondary education, including—

(1) programs, to be known as "Talent Search" designed to—

(A) identify qualified youths of financial or cultural need with an exceptional potential for postsecondary educational training and encourage them to complete secondary school and undertake postsecondary educational training, especially such youths who have delayed pursuing postsecondary educational training.

(B) publicize existing forms of student financial aid, including aid furnished under this title, and

(C) encourage secondary-school or college dropouts of demonstrated aptitude to reenter educational programs, including postsecondary-school programs;

(2) programs, to be known as "Upward Bound", (A) which are designed to generate skills and motivation necessary for success in education beyond high school and (B) in which enrollees from low-income backgrounds and with inadequate secondary-school preparation participate on a substantially full-time basis during all or part of the program;

(3) programs, to be known as "Special Services for Disadvantaged Students", of remedial and other special services for students with academic potential (A) who are enrolled or accepted for enrollment at the institution which is the beneficiary of the grant or contract, and (B) who, (i) by reason of deprived educational, cultural, or economic background, or physical handicap, are in need of such services to assist them to initiate, continue, or resume their postsecondary education or (ii) by reason of limited English-speaking ability, are in need of bilingual educa-

tional teaching, guidance, and counseling in order to enable them to pursue a postsecondary education;

(4) a program of paying up to 75 per centum of the cost of establishing and operating Educational Opportunity Centers which—

(A) serve areas with major concentrations of low-income populations by providing, in coordination with other applicable programs and services—

(i) information with respect to financial and academic assistance available for persons in such areas desiring to pursue a program of postsecondary education;

(ii) assistance to such persons in applying for admission to institutions, at which a program of postsecondary education is offered, including preparing necessary applications for use by admission and financial aid officer; and

(iii) counseling services and tutorial and other necessary assistance to such persons while attending such institutions; and

(B) serve as recruiting and counseling pools to coordinate resources and staff efforts of institutions of higher education and of other institutions offering programs of postsecondary education, in admitting educationally disadvantaged persons.

The portion of the cost of any project assisted under clause (4) in the preceding sentence which is borne by the applicant shall represent an increase in expenditure by such applicant for the purposes of such project; and

(5) a program of paying up to 90 per centum of the cost of establishing and operating or expanding service learning centers at institutions of higher education and other postsecondary educational institutions serving a substantial number of disadvantaged students which—

(A) will provide remedial and other special services for students who are enrolled or accepted for enrollment at that institution, and

(B) will serve, as a concentrated effort, to coordinate and supplement the ability of that institution to furnish such services to such students. Before making a grant or entering into a contract under clause (5) of the first sentence of this subsection the Commissioner may require any institution subject to such a contract or grant to submit an application containing or accompanied by such information, including the ability of that institution to pay the non-Federal share of the costs of the project to be assisted, as is essential to carry out the requirements of that clause.

No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this subsection by reason of such individual's age.

(c) Enrollees who are participating on an essentially full-time basis in one or more services being provided under this section may be paid stipends, but not in excess of $30 per month except in exceptional cases as determined by the Commissioner.

(d) Recipients of grants or contracts for the purposes of clause (3)(ii) of subsection (c) shall include in their curriculum a program of English language instruction for students of limited English-speaking ability.

(e) In making grants or entering into contracts under clause (1) or (5) of subsection (b) of this section the Commissioner may permit students or youths from other than low-income families, not to exceed one-third of the total served, to benefit by the projects to be assisted pursuant to that grant or contract.

(f)(1) The Commissioner is authorized to enter into contracts with institutions of higher education and other appropriate public agencies and nonprofit private organizations to provide training for staff and leadership personnel who will specialize in improving the delivery of services to students assisted under this subpart.

(2) Financial assistance under this subsection may be used for (A) the operation of short-term training institutes designed to improve the skills of participants in such institutes, and (B) the development of inservice training programs for such personnel.

(g) The Commissioner shall not make grants to programs authorized under clause (5) of subsection (b) of this section in any fiscal year in which the amount appropriated for carrying out this subpart is less than $70,331,000.

(h) It is the intention of the Congress to encourage, whenever feasible, the development of individualized programs for disadvantaged students assisted under this subpart.

(20 U.S.C. 1070d-1) Enacted June 23, 1972, P.L. 92-318, sec. 131 (b)(1), 86 Stat. 258, 259, amended August 21, 1974, P.L. 93-380, sec. 833, 88 Stat. 602, 604; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 124, 90 Stat. 2094, 2095, 2096; amended November 1, 1978, P.L. 95-566, sec. 4, 92 Stat. 2403.

SUBPART 5—EDUCATION INFORMATION

PROGRAM AUTHORIZATION

SEC. 418A. (a) The Commissioner shall, in accordance with the provisions of this subpart, make grants to States to pay the Federal share of the cost of planning, establishing, and operating Educational Information Centers to provide educational information, guidance, counseling, and referral services for all individuals, including individuals, residing in rural areas.

(b)(1) For the purpose of enabling the Commissioner to carry out this subpart, there are authorized to be appropriated $20,000,000 for fiscal year 1977, $30,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979.

(2) The Commissioner shall allocate funds appropriated in each year under this subpart to each State submitting a plan approved under section 418B an amount which bears the same ratio to such funds as the population of such State bears to the population of all the States, except that for each fiscal year no State which submitted an approved plan shall receive from such funds less than $50,000 for that year. In making allocations under this paragraph, the Commissioner shall use the latest available actual data, including data on previous participation, which is satisfactory to him.

(c) The Federal share of the cost of planning, establishing, and operating Educational Information Centers for any fiscal year under this subpart shall be 66⅔ per centum, and the non-Federal share may be in cash or in kind.

(d) For the purposes of this subpart, the term "Educational Information Center" means an institution or agency, or combination of institutions or agencies, organized to provide services to a population in a geographical area no greater than that which will afford all persons within the area reasonable access to the services of the Center. Such services shall include—

(1) information and talent search services designed to seek out and encourage participation in full-time and part-time postsecondary education or training of persons who could benefit from such education or training if it were not for cultural or financial barriers, physical handicap, deficiencies in secondary education, or lack of information about available programs or financial assistance;

(2) information and referral services to persons within the area served by the Center, including such services with regard to—

(A) postsecondary education and training programs in the region and procedures and requirements for applying and gaining acceptance to such programs;

(B) available Federal, State, and other financial assistance, including information on procedures to be followed in applying for such assistance;

(C) available assistance for job placement or gaining admission to postsecondary education institutions including, but not limited to, such institutions offering professional, occupational, technical, vocational, work-study, cooperative education, or other education programs designed to prepare persons for careers, or for retraining, continuing education, or upgrading of skills;

(D) competency-based learning opportunities, including opportunities for testing of existing competencies for the purpose of certification, awarding of credit, or advance placement in postsecondary education programs;

(E) guidance and counseling services designed to assist persons from the area served by the Center to identify postsecondary education or training opportunities, including part-time opportunities for individuals who are employed, appropriate to their needs and in relationship to each individual's career plans; and

(F) remedial or tutorial services designed to prepare persons for postsecondary education opportunities or training programs, including such services provided to persons enrolled in postsecondary education institutions within the area served by the Center.

Services may be provided by a Center either directly or by way of contract or other agreement with agencies and institutions within the area to be served by the Center.

(e) Nothing in this subpart shall be construed to affect funds allocated to the establishment and operation of Educational Opportunity Centers for the disadvantaged pursuant to section 417(B)(b)(4) of this part.

ADMINISTRATION OF STATE PROGRAMS

SEC. 418B. (a) Each State receiving a grant under this part is authorized in accordance with its State plan submitted pursuant to subsection (b) of this section, to make grants to, and contracts with, institutions of higher education, including institutions with vocational and career education programs, and combinations of such institutions, public and private agencies and organizations, and local education agencies in combination with any institution of higher education, for planning, establishing, and operating Educational Information Centers within the State.

(b) Any State desiring to receive a grant under this subpart shall submit for the approval of the Commissioner a State plan, which shall include—

(1) a comprehensive strategy for establishment or expansion of Educational Information Centers, designed to achieve the goal, within a reasonable period of time, of making available within reasonable distance to all residents of the State the services of an Educational Information Center;

(2) assurances concerning the source and availability of State, local, and private funds to meet the non-Federal share of the cost of the State plan required by section 418A(c); and

(3) such other provisions as are essential to carry out the provisions of this subpart.

(20 U.S.C. 1070d-2) Enacted October 12, 1976, P.L. 94-482, Title I, Part D, Sec. 125, 90 Stat. 2096, 2097, 2098.

SUBPART 6—ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION [1]

PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

SEC. 419. (a) Each institution of higher education shall be entitled for each fiscal year to a cost-of-education payment in accordance with the provisions of this section.

(b)(1) The amount of the cost-of-education payment to which an institution shall be entitled under this section for a fiscal year shall be, subject to subsection (d), the amount determined under paragraph (2)(A) plus the amount determined under paragraph (2)(B).

(2)(A)(i) The Commissioner shall determine the amount to which an institution is entitled under this subparagraph on the basis of the total number of undergraduate students who are in attendance at the institution and the number of students who are also recipients of basic grants under subpart 1, in accordance with the following table:

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[1] Sec. 1001(d) of P.L. 92-318 provides as follows:

"(d) The total of the payments made under subpart 5 of part A of title IV, of the Higher Education Act of 1965 (except section 420) and under part F of title IX of such Act may not exceed $1,000,000,000 during any fiscal year."

If the total number of students in attendance is—	The amount of the grant is—
Not over 1,000	$500 for each recipient.
Over 1,000 but not over 2,500	$500 for each of 100 recipients; plus $400 for each recipient in excess of 100.
Over 2,500 but not over 5,000	$500 for each of 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each recipient in excess of 250.
Over 5,000 but not over 10,000	$500 for each 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each recipient in excess of 500.
Over 10,000	$500 for each of the 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each of 500 recipients in excess of 500; plus $100 for each recipient in excess of 1,000.

(ii) In any case where a recipient of a basic grant under subpart 1 attends an institution receiving a cost-of-education payment under this subpart on less than a full-time basis, the amount determined under this subparagraph with respect to that student shall be reduced in proportion to the degree to which that student is not attending on a full-time basis.

(iii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

(B)(i) The Commissioner shall determine with respect to each institution an amount equal to the appropriate per centum (specified on the table below) of the aggregate of—

(I) supplemental educational opportunity grants under subpart 2;

(II) work-study payments under part C; and

(III) loans to students under part E;

made for such year to students who are in attendance at such institution. The Commissioner shall determine such amounts on the basis of percentages of such aggregate, and the number of students in attendance at institutions during the most recent academic year ending prior to such fiscal year, in accordance with the following table:

If the number of students in attendance at the institution is—	The percentage of such aggregate shall be—
Not over 1,000	50 per centum.
Over 1,000 but not over 3,000	46 per centum.

If the number of students in attendance at the institution is—	The percentage of such aggregate shall be—
Over 3,000 but not over 10,000	42 per centum.
Over 10,000	38 per centum.

(ii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

(3)(A) In determining the number of students in attendance at institutions of higher education under this subsection, the Commissioner shall compute the full-time equivalent of part-time students.

(B) The Commissioner shall make a separate determination of the number of students in attendance at an institution of higher education and the number of recipients of basic grants at any such institution at each branch or separate campus of that institution located in a different community from the principal campus of that institution pursuant to criteria established by him.

(c)(1) An institution of higher education may receive a cost-of-education payment in accordance with this section only upon application therefor. An application under this section shall be submitted at such time or times, in such manner, and containing such information as the Commissioner determines necessary to carry out his functions under this title, and shall—

(A) set forth such policies, assurances, and procedures as will insure that—

(i) the funds received by the institution under this section will be used solely to defray instructional expenses in academically related programs of the applicant;

(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

(iv) the applicant will submit to the Commissioner such reports as the Commissioner may require by regulation; and

(B) Contain such other statement of policies, assurances, and procedures as the Commissioner may require by regulation in order to protect the financial interests of the United States.

(d)(1) The Commissioner shall pay to each institution of higher education for each fiscal year the amount to which it is entitled under this section.

(2) of the total sums appropriated to make payments on the basis of entitlements established under this section and on the basis of entitlements of established part F of title IX—

(A) 45 per centum shall be available for making payments on the basis of entitlements established under paragraph (2)(A) of subsection (a);

(B) 45 per centum shall be available for making payments on the basis of entitlements established under paragraph (2)(B) of subsection (a); and

(C) 10 per centum shall be available for making payments on the basis of entitlement established under part F of title IX.

(3) No payments on the basis of entitlements established under paragraph (2)(A) of subsection (a) may be made during any fiscal year for which the appropriations for making grants under subpart 1 does not equal at least 50 per centum of the appropriation necessary for satisfying the total of all entitlements established under such subpart. In no event shall, during any fiscal year, the aggregate of the payments to which this paragraph applies exceed that percentage of the total entitlements established under such paragraph (2)(A) which equals the percentage of the total entitlements established under subpart 1 which are satisfied by appropriations for such purpose for that fiscal year.

(20 U.S.C. 1070e) Enacted June 23, 1972, P.L. 92-318, sec. 1001 (a), 86 Stat. 375, 378.

VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

SEC. 420. (a)(1) During the period beginning July 1, 1972, and ending September 30, 1979, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 and title 38, United States Code, or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

(i) 110 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a per centum of such undergraduate students which is less than such per centum for the preceding academic year; and

(B) the number of such persons is at least 25.

(2) During the period specified in paragraph (1), each institution which has qualified for a payment under this section for any year shall be entitled during the succeeding year, notwithstanding paragraph (1), to a payment under and in accordance with this section, if the number of persons referred to in such paragraph (1) equals at least the number of such persons who were in attendance at such institution during the preceding academic year or equals at least the minimum number of such persons necessary to establish eligibility to entitlement under paragraph (1) during the preceding academic year, whichever is less. Each institution which is entitled to a payment for any fiscal year by reason of the preceding sentence

shall be deemed, for the purposes of any such year succeeding the year for which it is so entitled, to have been entitled to a payment under paragraph (1) during the preceding fiscal year.

(3) During the period beginning July 1, 1976, and ending September 30, 1977, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding paragraph (1), to a payment under this section, if the number of persons referred to in such paragraph (1), equals whichever is the lesser of (A) at least the number of such persons who were in attendance at such institution during the preceding academic year less the number of such persons whose eligibility for educational assistance under chapter 34 of title 38, United States Code, expired on May 31, 1976, by virture of section 1662(c) of such title, or (B) at least the minimum number of such persons necessary to establish eligibility to entitlement under paragraph (1) during the preceding academic year less the number of such persons whose eligibility for educational assistance under chapter 34 of title 38, United States Code, expired on May 31, 1976, by virtue of section 1662(c) of such title.

(4) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1980, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

(B) in the event that clause (A) of this paragraph is not satisfied, the Commissioner determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such clause (A), to continue to recruit, enroll, and provide necessary services to veterans.

(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38, and who is in attendance at such institutions as an undergraduate student during such year; and

(B) in addition, $150, except in the case of persons on behalf of whom the institution has received a payment in excess of $150 under section 419, for each person who has been the recipient of educational assistance under subchapter V or subchapter VI of chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year.

(2) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis.

(c)(1)[1] An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Commissioner. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Commissioner determines necessary to carry out his functions under this title, and shall—

(A) meet the requirements set forth in clauses (A) and (B) of section 419(c)(1);

(B) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provisions of educational, vocational, and personal counseling for veterans,

(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of title 38, United States Code, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

(iii) to carry out active outreach (with special emphasis on educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38), and

(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38,

except that an institution with less than 2,500 students in attendance (I) which the Commissioner determines, in accordance with regulations jointly prescribed by the Commissioner and the Administrator of Veterans' Affairs (hereinafter referred to as the "Administrator"), cannot feasibly itself carry out any or all of the programs set forth in subclauses (i) through (iv) of this clause, may carry out such program or programs through a consortium agreement with one or more other institutions of higher education and

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[1] Section 126(d) of Part D of Title I of P.L. 94-482 (enacted Oct. 12, 1976) reads as follows:

"Not later than ninety days after the enactment of this Act, the Commissioner shall prepare and submit to the Congress a report containing a summary of the activities and programs (including the number and characteristics of veterans served) at institutions of higher education receiving assistance under section 420 of the Higher Education Act of 1965 (relating to veterans' cost-of-instruction payments) and a description of the steps taken (and the results thereof) to carry out his responsibility under subsection (c)(1) of that section to monitor and determine the adequacy of efforts by such institutions."

(II) shall be required to carry out such programs only to the extent that the Commissioner determines, in accordance with regulations jointly prescribed by the Commissioner and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of clause (B) in the preceding sentence shall be determined by the Commissioner, based upon the recommendation of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Commissioner and the Administrator.

(2) The Commissioner shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of clause (B) of paragraph (1) within the first academic year during which it receives a payment under this section.

(d)(1) The Commissioner shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section. Payments under subsection shall be made in not less than three installments during each academic year and shall be based on the actual number of persons on behalf of whom such payments are made in attendance at the institution at the time of the payment.

(2) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year, shall be $135,000. In making payments under this section for any fiscal year, the Commissioner shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payment set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for a payment under this section of first $9,000 (or the amount of its entitlement for that fiscal year, whichever is less) and then additional amounts up to the limitation set forth in the preceding sentence.

(e) Not less than 75 per centum of the amounts paid to any institution under subsection (d) in any fiscal year shall be used to implement the requirement of clause (B)(i) of paragraph (1) of subsection (c), and, to the extent that such funds remain after implementing such requirements, funds limited by such 75 per centum requirement shall be used for implementing the requirements of clauses (B)(ii), (iii), and (iv) of such paragraph (1), except that the Commissioner may, in accordance with criteria established in regulations jointly prescribed by the Commissioner with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

(f) The Commissioner, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38 of the United States Code, and the Administrator of Veterans' Affairs shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Office of Education.

(20 U.S.C. 1070e-1) Enacted June 23, 1972, P.L. 92-318, sec. 1001(a), 86 Stat. 378, 379; amended August 21, 1974, P.L. 93-380, sec. 835, 88 Stat. 604, 605; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 126, 90 Stat. 2098; amended Aug. 4, 1978, P.L. 95-336, sec. 6, 92 Stat. 453.

NOTE.—Subsection (a) of section 127 of Part D of Title I of P.L. 94-482 amends Part B—Federal, State and Private Programs of Low-Interest Insured Loans to Students in Institutions of Higher Education. Subsection (b) of section 127 of Part D of Title I of P.L. 94-482 reads as follows:

"The amendment made by subsection (a) of this section of this Act shall become effective October 1, 1976, except as otherwise provided therein, and to the extent such amendment makes changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendment becomes effective, except that—

(1) the changes made in sections 425(a), 427(a)(1)(C), 427(a)(2)(G) and 428(b)(1) (A), (B) and (P) shall become applicable with respect to loans to cover the costs of education for periods of enrollments beginning on or after October 1, 1976;

(2) section 422, (c) shall become effective October 1, 1977;

(3) section 428, (f) shall become effective October 1, 1976;

(4) the changes made in section 428(a)(2) shall become applicable with respect to the determination of interest subsidies on loans to cover the costs of education for periods of enrollment beginning on or after 30 days after the date of enactment of this Act;

(5) the new section 433 shall become effective with respect to loans made to cover the costs of education for periods of enrollment beginning on or after October 1, 1976;

(6) the changes in section 428(c) with respect to the amount of Federal guarantee payments shall become effective with respect to payments to reimburse States and nonprofit private institutions and organizations with which the Commissioner has an agreement under section 428(c) of such part which are made on or after October 1, 1976; and

(7) section 438, shall become effective with respect to fiscal quarters beginning after December 31, 1976."[1]

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[1] Subsection (b) of Section 127 of P.L. 94-482, as amended by Section 1 (b)(4) of P.L. 95-43, reads as follows:

(b) The amendment made by subsection (a) of this section of this Act shall become effective October 1,1976, except as otherwise provided therein, and to the extent such amendment makes changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendment become effective, except that—

(1) The changes made in—

(A) sections 425 (a) (other than paragraphs (1) (A) and (B) thereof) and 428(b)(1)(A) other than divisions (i) and (ii) thereof, and sections 427(a)(1)(C) and 428(b)(1)(B) shall become applicable with respect to loans to cover the costs of education for periods of enrollment beginning on or after October 1, 1976;

(B) sections 425(a)(1) (A) and (B) and 428(b)(1)(A) and (ii) shall become applicable with respect to loans made on or after February 12, 1977, to cover such costs for such periods beginning on or after November 12, 1976;

(C) sections 428(a)(2) (G) and (H) and 428(b)(1) (N), (O), and (P) shall become applicable with respect to loans made on or after June 1, 1977;

(2) section 422(c) shall become effective October 1, 1977;

(3) section 428(f) shall become effective October 1, 1976;

(4) the changes made in section 428(a)(2) shall become applicable with respect to the determination of interest subsidies on loans to cover the cost of education for periods of enrollment beginning on or after 30 days after the date of enactment of this Act;

(5) the new section 433 shall become effective with respect to loans made on or after February 12, 1977 to cover the costs of education for periods of enrollment beginning on or after November 12, 1976;

(6) the changes in section 428(c) with respect to the amount of Federal guarantee payments shall become effective with respect to payments to reimburse States and nonprofit private institutions and organizations with which the Commissioner has an agreement under section 428(c) of such part which are made on or after October 1, 1976; and

(7) section 438, shall become effective with respect to fiscal quarters beginning after December 31, 1976.

The amendment to Part B, as made by subsection (a) of section 127 of Part D of Title I of P.L. 94-482 follows:

PART B—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION [2] [3]

STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

SEC. 421. (a) The purpose of this part is to enable the Commissioner (1) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435), (2) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b)(3), to pay a portion of the interest on loans to qualified students which are made by a State under a direct loan program meeting the requirements of section 428(a)(1)(B), or which are insured under this part or under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C), and (4) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C).

(b) For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefore,

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs,

(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the re-

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[2] Section 2(b) of P.L. 95-43 reads as follows:

(b)(1) Except as provided in paragraph (2), amendments made by the first section of this Act to part B of title IV of the Higher Education Act of 1965 shall take effect as provided by subsection (b) of section 127 of the Education Amendments of 1976, as amended by this Act, and shall, for purposes of such subsection, collectively be deemed to be an amendment made by subsection (a) of such section.

(2) The amendments made by paragraphs (17), (20), and (21)(D) of subsection (a) of the first section of this Act shall take effect thirty days after the date of its enactment. No determination made pursuant to section 428(a)(9) of the Higher Education Act of 1965 as in effect between September 30, 1976, and such thirtieth day after enactment of this Act shall be invalid if such determination, at a minimum, complies with such section as amended by such paragraph (20).

[3] The provisions of Part B governing all loans made between August 19, 1972, and March 1, 1973, and the provisions governing all loans made under Part B between July 1, 1972, and August 18, 1972, or after March 1, 1973 have been omitted from this print of the Compilation (see the June 30, 1977 issue for these provisions, pp. 334-367).

serve funds of State and nonprofit private student loan insurance programs, and

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(f) to State and nonprofit institutions and organizations with which the Commissioner has an agreement under section 428(b).

Sums appropriated under clauses (1), (2), (4), and (5) of this subsection shall remain available until expended, and sums appropriated under clause (3) of this subsection shall remain available for advances under section 422 until the close of the fiscal year ending June 30, 1968.

(c) For purposes of carrying out this part—

(1) the Commissioner shall develop and execute a plan designed to encourage the establishment of student [sic] loan insurance program by each State (whether operated by an agency of the State or by a nonprofit private institution or organization designated by the State) which does not have such a program covered by an agreement pursuant to section 428(b);

(2) the Commissioner shall make a report to the Congress within 180 days after the enactment of the Education Amendments of 1976, containing a description of the plan developed according to paragraph (1) accompanied by a timetable for the execution of such plan; and

(3) the Commissioner shall make a report to the Congress before June 30, 1977, which shall include—

(A) a description of the activities the Commissioner and his designees have undertaken pursuant to paragraph (1),

(B) a description of such State's plans to establish a program meeting the requirements of section 428(b), and

(C) the Commissioner's recommendations to the Congress as to what changes in law, or policy would encourage the establishment of such a program in all States without such programs.

(20 U.S.C. 1071) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, sec. 421, 79 Stat. 1236; amended Aug. 3, 1968, P.L. 90-460, secs. 2, 3, 82 Stat. 635-6; amended Oct. 16, 1968, P.L. 90-575, Title I, secs. 113, 114, 119, 82 Stat. 1020, 1021, 1027; amended Oct. 12, 1976, P.L. 94-482, Title I, Part D, Section 127 (a), 90 Stat. 2099, 2100; amended June 15, 1977, P.L. 95-43, sec. 1 (a)(8), (a)(9), (a)(10), 91 Stat. 213.

ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS

Sec. 422. (a)(1) From the sums appropriated pursuant to clauses (3) and (4)(A) of section 421(b), the Commissioner is authorized to make advances to any State with which he has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Commissioner determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Commissioner may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Commissioner may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirement of section 428(b)(1).

(2) No advance shall be[1] made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term "unencumbered non-Federal portion" means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of (A) the sum of (i) advances made under this section prior to July 1, 1968, (ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made, and (iii) the proceeds of earnings on advances made under this section or (B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

(3) Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Commissioner determines will best carry out the purposes of this section. Advances made by the Commissioner under this subsection shall be repaid within such period as the Commissioner may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b)(1) The total of the advances to any State prior to July 1, 1968, pursuant to subsection (a) may not exceed an amount which bears the same ration to 2½ per centum of $700,000,000 as the population of that State aged eighteen to twenty-two, inclusive, bears to the total population of all the States aged eighteen to twenty-two inclusive. The amount available, however, for advances to any State for each fiscal year ending prior to July 1, 1968, shall not be less than $25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000 per year) the amount available for advances to each of the remaining States. Advances to nonprofit private institutions and organizations prior to July 1, 1968, pursuant to subsection (a) may be in such amounts as the Commissioner determines will best achieve the purposes for which they are made, except that the sum of (1) advances to such institutions and organizations for the benefit of students in any State plus (2) the amounts advanced to such State, may not exceed the maximum amount which may be advanced

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[1] Should read "be made . . ."

vanced to that State pursuant to the first two sentences of this subsection.

(2) the total of the advances from the sums appropriated pursuant to clause (4)(A) of section 421(b) to nonprofit private institutions and organizations for the benefit of students in any State and (B) to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged eighteen to twenty-two, inclusive, bears to the population of all the States aged eighteen to twenty-two inclusive, but such advances may otherwise be in such amounts as the Commissioner determines will best achieve the purposes for which they are made. The amount available, however, for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

(3) For the purposes of this subsection, the population aged eighteen to twenty-two, inclusive, of each State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(c)(1) From sums appropriated pursuant to section 421(b)(4)(B), the Commissioner shall advance to each State which has an agreement with the Commissioner under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

(2)(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 per centum of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by (i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date, and (ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a). Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

(C) For purposes of subparagraph (B) the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

(4)(A) No repayment of any advances made pursuant to this subsection shall be required until such time as the sum of the advances under this subsection exceeds 20 per centum of the State's outstanding insurance obligation determined in accordance with subparagraph (B) of this paragraph.

(B) For purposes of this paragraph, a State's outstanding insurance obligation shall be determined by subtracting from the total principal amount of loans insured by the State since it entered into an agreement pursuant to section 428(b), the total principal amount of loans insured by such State which have been fully repaid by the borrower, the State itself, or the Commissioner, and loans which have been canceled.

(C) At such time as advances pursuant to this subsection reach the level indicated in subparagraph (A) of this paragraph, the amount of any excess shall be paid over to the Commissioner in a lump sum at the beginning of each fiscal year for deposit in the fund established by section 431.

(5) Advances pursuant to this subsection shall be made to a State—

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before the date of enactment of this subsection, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the two succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after the date of enactment of this subsection or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the four succeeding calendar years after the date so requested of the advance.

(6)(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Commissioner determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Commissioner may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

(B) The Commissioner may enter into an agreement with a private nonprofit institution or organization for purposes of this paragraph under which such institution or organization—

(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquires from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State,

(ii) agrees that its insurance will not be denied any student because of his choice of eligible institutions or the student's lack of need, and

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

(20 U.S.C. 1072) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, sec. 422, 79 Stat. 1236; amended Nov. 3, 1966, P.L. 89-752, sec. 11, 80 Stat. 1243; amended Oct. 16, 1968, P.L. 90-575, Title I, sec. 114, 82 Stat. 1021; amended Oct. 12, 1976, P.L. 94-482, Title I, Pat D, sec. 127(a), 90 Stat. 2100, 2101, 2102, 2103; amended June 15, 1977, P.L. 95-43, sec. 1(a)(11)(A), (B), (C), (a)(12), (a)(13), 91 Stat. 213, 214; amended Nov. 1, 1978, P.L 95-561, sec. 1322(a), 92 Stat. 2363. The effective date of section 422(c)(5) as amended is Oct. 1, 1977.

EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS

SEC. 423. (a) Except as provided in subsections (b) and (c), the Commissioner shall not issue certificates of insurance under section 429 to lenders in a State if he determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428 (b).

(b) The Commissioner may issue certificates of insurance under section 429 to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of his residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State),

(2) for insurance of all of the loans made to student borrowers by a lender who satisfies the Commissioner that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers, or

(3) under such circumstances as may be approved by the State on nonprofit private institution or organization in such State with which the Commissioner has an agreement under section 428 (b), for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

(c) The Commissioner shall not deny, because of any provision of this section, a certificate of insurance under section 429 to any eligible lender which is an eligible institution if such lender has previously executed an agreement with the Commissioner pursuant to section 433 of this part, unless the Commissioner determines, based upon studies and surveys satisfactory to him, that access to a loan by all eligible students who make an active and diligent effort to obtain a loan under this part will be otherwise available. In order to carry out the provisions of the preceding sentence the Commissioner shall periodically assess the availability of loans to eligible students through studies and surveys undertaken by him and through review of properly conducted studies and surveys made available to him.

(20 U.S.C. 1073) Enacted Nov. 8, 1965, P.L. 89-329, title IV, sec. 423, 79 Stat. 1237; amended Oct. 16, 1968, P.L. 90-575, sec. 119, 82 Stat. 1026; amended Oct. 12, 1976, P.L. 94-482, title I, part D, sec. 127(a), 90 Stat. 2103; amended June 15, 1977, P.L. 95-43, sec. 1(a)(14), 91 Stat. 214.

SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

SEC. 424. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $1,400,000,000 for the fiscal year ending June 30, 1972, $1,600,000,000 for the fiscal year ending June 30, 1973, $1,800,000,000 for the fiscal year ending June 30, 1974, $2,000,000,000 for each of the fiscal years ending June 30, 1975, and 1976, and $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1981. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1985.

(b) The Commissioner may, if he finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(20 U.S.C. 1074) Enacted Nov. 8, 1965, P.L. 89-329, title IV, sec. 424, 79 Stat. 1237; amended Aug. 3, 1968, P.L. 90-460, sec. 1, 82 Stat. 634; amended Oct. 16, 1968, P.L. 90-575, title I, sec. 112, 82 Stat. 1020; amended June 23, 1972, P.L. 92-318, sec. 132(a), 86 Stat. 261; amended June 30, 1976, P.L. 94-328, sec. 2(a), 90 Stat. 727; amended Oct. 12, 1976, P.L. 94-482, title I, part D, sec. 127(a), 90 Stat. 2103, 2104.

LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

SEC. 425. (a)(1) The total of loans made to a student in any academic year or its equivalent (as determined by the Commissioner) which may be covered by Federal loan insurance under this part may not exceed $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except—

(A) that in the case of loans to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, which are made by an eligible lender as described in section 435(g)(1)(D) or which are made or originated (as defined in section 433(b)) by an eligible institution, the total of such loans may not exceed the lesser of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with the provisions of section 428(a)(2)(B)(i)),

(B) that in the case of a loan made or originated (as defined in section 433(b)) by an eligible institution which is made to such a first-year student, the loan may exceed $1,500 only if it is to be disbursed in two or more installments none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

(C) in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high cost of education.

The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit. For the purpose of clause (B), all loans made within any period of 90 days shall be considered a single loan.[1]

(2) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 428(b), made to such person before he became a graduate or professional student).

(b)(1)(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan plus interest, except that—

(i) if, for any fiscal year, the total amount of payments under section 430 by the Commissioner to any eligible lender as described in section 435(g)(1)(D) exceeds 5 per centum of the sum of the loans made by such lender which are insured by the Commissioner and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C) shall be equal to 90 per centum of the amount of such portion;

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[1] This sentence was added by section 1(a)(17) of P.L. 95-43. Section 2(b)(2) of P.L. 95-43 provides that the amendment made by such sentence shall take effect thirty days after the date of the enactment of P.L. 95-43. P.L. 95-43 was approved June 15, 1977.

(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 per centum of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (c), shall be equal to 80 per centum of the amount of such portion.

(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) shall not apply to an eligible lender as described in section 435(g)(1)(D) for the fiscal year in which such lender begins to carry on a loan program insured by the Commissioner, or for any of the four succeeding fiscal years.

(C) The applicable date with respect to a loan made by an eligible lender as described in section 435(g)(1)(D) shall be—

(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after the date of enactment of the Education Amendments of 1967, or

(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

(2) For the purposes of this subsection, the sum of the loans made by a lender which are insured by the Commissioner and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Commissioner reduced by (A) the amount the Commissioner has been required to pay to discharge his insurance obligations under this part, (B) the original principal amount of loans insured by the Commissioner which have been fully repaid, (C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 427(a)(2)(B) or such first installment need not be paid pursuant to section 427(a)(2)(C), and (D) the original principal amount of loans repaid by the Commissioner under section 437.

(3) For the purposes of this subsection, payments by the Commissioner under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

(4) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

(20 U.S.C. 1075) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, sec. 425, 79 Stat. 1238; amended Oct. 16, 1968, P.L. 90-575, Title I, secs, 116, 120, 82 Stat. 1023 and 1027; amended June 23, 1972, P.L. 92-318, sec. 132(a), 86 Stat. 261; further amended June 23, 1972, P.L. 92-318, sec. 132B(a), 86 Stat. 262; amended Oct. 12, 1976, Title I, Part D, sec. 127(a), 90 Stat. 2104, 2105; amended June 15, 1977, P.L. 95-43, sec. (1)(a)(15), (a)(16), (a)(17), 91 Stat. 214; amended November 1, 1978, P.L. 95-566, sec. 5(b)(2), 92 Stat. 2403.

SOURCES OF FUNDS

Sec. 426. Loans made by eligible lenders in accordance with this part shall be insurable by the Commissioner whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

(20 U.S.C. 1076) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, sec. 426, 79 Stat. 1238; amended Oct. 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2106.

ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

SEC. 427. (a) A loan by an eligible lender shall be insurable by the Commissioner under the provisions of this part only if—

(1) made to a student who (A) has been accepted for enrollment at an eligible institution or, in the case of a student already attending such institution, is in good standing there as determined by the institution, (B) is carrying at least one-half of the normal fulltime workload as determined by the institution, and (C) has agreed to notify promptly the holder of the loan concerning any change of address; and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required,

(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than five years (unless sooner repaid or unless the student, during the nine- to twelve-month period preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning not earlier than nine months nor later than one year after the date on which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

(i) as provided in clause (C) below,

(ii) that the period of the loan may not exceed fifteen years from the execution of the note or written agreement evidencing it,

(iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Commissioner in effect at the time the loan is made, and

(iv) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that in the event a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than five years,

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an "eligible institution", is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner, or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, or (v) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment, and any such period shall not be included in determining the ten-year period or the fifteen-year period provided in clause (B) above,

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal,

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Commissioner under this part, and that the lender will enter into such agreements with the Commissioner as may be necessary for the purposes of section 437,

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan,

(G) provides that, in the case of each loan insured by the program, the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower,

(H) the funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student, and

(I) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Commissioner pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Commissioner with respect to such loan.

(b) No maximum rate of interest prescribed and defined by the Secretary for the purposes of clause (2)(D) of subsection (a) may exceed 7 per centum per annum on the unpaid principal balance of the loan.

(c) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not unless the borrower and the lender otherwise agree, be less than $360 or the balance of all of such loans (together with interest thereon), whichever amount is less, except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $360 or the balance of all such loans, whichever is less.

(20 U.S.C. 1077) Enacted Nov. 8, 1965, P.L. 89-320, Title IV, sec. 427, 79 Stat. 1238; amended Nov. 8, 1966, P.L. 89-794, Title XI, sec. 1101 (b), 80 Stat. 1476; amended Aug. 3, 1968, P.L. 90-460, sec. 2, 82 Stat. 635; amended Oct. 16, 1968, P.L. 90-575, Title I, sec. 113, 116, 120, 82 Stat. 1021, 1023, 1027; amended June 23, 1972, P.L. 92-318, sec. 132B (b), 86 Stat. 262; further amended June 23, 1972, P.L. 92-318, sec. 132C (c), 86 Stat. 263; amended Oct. 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2107, 2108; amended June 15, 1977, P.L. 95-43, sec. 1(a)(9), 91 Stat. 213; sec. 1(a)(18), 91 Stat. 214; amended November 1, 1978, P.L. 95-566, sec. 5(a)(1), 92 Stat. 2403.

FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

SEC. 428. (a)(1) Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Commissioner under this part;

(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which was contracted for, and paid to the student, within the period specified by paragraph (5); or

(C) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b), shall be entitled to have paid on his behalf and for his account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by the institution), which—

(i) sets forth such student's estimated cost of attendance, and

(ii) sets forth such student's estimated financial assistance.

(B) For the purposes of paragraph (1) and this paragraph—

(i) a student's estimated cost of attendance means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the institution's estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable commuting costs, and costs for books;

(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under parts A, C, and E of this title, plus other scholarship, grant, or loan assistance;

(iii) the term "eligible institution" when used with respect to a student is the eligible institution at which the student has been accepted for enrollment or, in the case of a student who is in attendance at such an institution, at which the student is in good standing (as determined by such institution).

(3)(A) Except as provided in paragraph (8), the portion of the interest on a loan which a student is entitled to have paid on his behalf and for his account to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C); but, except as provided in paragraph (8) of this subsection, such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his behalf for that period under any State or private loan insurance program. The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Commissioner the portion of interest which has been so determined. The Commissioner shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(B) If (i) a State student loan insurance program is covered by an agreement under subsection (b), (ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than 7 per centum per annum on the unpaid principal balance, and (iii) the Commissioner determines that *section 428(d) does* not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purposes of this part, then he may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the sixtieth day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per annum (determined by the Commissioner) which shall not exceed 1 per centum of the unpaid principal balance of the loan.

(4) Each holder of a loan with respect to which payments of interest are required to be made by the Commissioner shall submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan.

(5) The period referred to in subparagraphs (B) and (C) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, 1981, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his educational program, such period shall end at the close of September 30, 1985.

(6) No payment may be made under this section with respect to the interest on a loan made from a student loan fund established under title II of the National Defense Education Act of 1959 or part E of this title.

(7) Nothing in this or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(8)(A) In the case of any eligible lender (other than an eligible institution or an agency or instrumentality of a State), which is approved by the Commissioner pursuant to subparagraph (B) of this paragraph for the purpose of authorizing multiple disbursements and which enters into a binding agreement with a student to make a loan—

(i) for which the student is entitled to have a portion of the interest paid on his behalf under this section, and

(ii) the proceeds of which loan are to be paid to the student in multiple disbursements over the period of enrollment for which the loan is made, but not to exceed twelve months, the amount of the interest payment and the amount of any special allowance payment to be paid under section 438 shall be determined as if the entire amount to be made available for that period of enrollment had been disbursed on the date on which the first installment thereof was disbursed, and any increase in the rate of interest on the loan attributable to such multiple disbursements shall not be deemed to violate any provision of this part relating to the maximum rate of interest on such loan. The provisions of this paragraph shall apply only in the case of loans paid in multiple disbursements, in accordance with regulations of the Commissioner, based on the need of the student for the proceeds of such loan over the period of enrollment for which the loan is made.

(B) The Commissioner may approve an eligible lender for the purposes of this paragraph if he determines—

(i) that such lender is making or will be making a substantial volume of loans on which an interest subsidy is payable under this section, and

(ii) that such lender has sufficient experience and administrative capability in processing such loans to enable the lender to make such multiple disbursements in accordance with regulations issued by the Commissioner under this subparagraph.

(b)(1) Any State or any nonprofit private institution or organization may enter into an agreement with the Commissioner for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Commissioner determines that the student loan insurance program—

(A) authorizes the insurance in any academic year or its equivalent (as determined under regulations of the Commissioner) if not less than $1,000 nor more than $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except—

(i) that the program may not authorize the insurance of loans which are made by an eligible lender as described in section 435(g)(D) or which are made or originated (as defined in section 433(b)) by an eligible institution to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, in an amount in excess of the lesser of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with section 428(a)(2)(B)(i)),

(ii) that the program may not authorize the insurance of a loan in excess of $1,500 for an academic year which is made or originated (as defined in section 433(b)) by an eligible institution, and is made to such a first-year student unless the loan is to be disbursed in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

(iii) in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education,

but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit, and all loans issued within any period of 90 days shall be considered as a single loan for purposes of division (ii);[1]

(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 428(b), made to such person before he became a graduate or professional student);

(C) authorizes the insurance of loans to any individual student for at least six academic years of study or their equivalent (as determined under regulations of the Commissioner);

(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the period of any insured loan may not exceed fifteen years from the date of execution of the note or other written evidence of the loan, and (iii) the note or other written evidence of any loan, may contain such provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Commissioner in effect at the time such note or written evidence was executed;

(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than five years (unless the student, during the nine- to twelve-month period preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning not earlier than nine months nor later than one year after the student ceases to pursue a full-time course of study at an eligible institution, except—

(i) that, if the program provides for the insurance of loans for part-time study at eligible institutions, the program shall provide that such repayment period shall begin not earlier than nine months nor later than one year after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution;

(ii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload, as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that in the event a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan have the repayment period extended so that the total repayment period is not less than five years;

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[1] The last independent clause of this sentence was added by Section 1(a)(21)(D) of P.L. 95-43. Section 2(b)(2) of P.L. 95-43 provides that this amendment shall take affect 30 days after the date of enactment of P.L. 95-43.

(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess of 7 per centum per annum on the unpaid principal balance of the loan (exclusive of any premium for insurance which may be passed on to the borrower);

(G) insures not less than 80 per centum of the unpaid principal of loans insured under the program;

(H) does not provide for collection of an excessive insurance premium;

(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under section 428(a)(1) and (2) except in the case of loans made by an instrumentality of a State or eligible institution;

(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one more nonprofit private institutions or organizations under supervision of a single State agency;

(L) provides that the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not be less than $360 or the balance of all such loans (together with interest thereon), whichever amount is less, unless the borrower and the lender otherwise agree, except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $360 or the balance of all such loans, whichever is less:

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner, or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, or (v) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

(N) provides that in the case of each loan insured by the program that the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan, and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower;

(O) provides that funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student; and

(P) requires the borrower to promptly notify the holder of the loan concerning any change of address.

(2) Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan;

(B) include such other provisions as may be necessary to protect the financial interests of the United States and promote the purposes of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Commissioner and the State or nonprofit private organization or institution, as the case may be; and

(C) provide for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his function under this part, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(c)(1)(A) The Commissioner may enter into a guaranty agreement with any State or any nonprofit private institution or organization with which he has an agreement pursuant to subsection (b), whereby the Commissioner shall undertake to reimburse it, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan with respect to which a portion of the interest is payable by the Commissioner under subsection (a), or would be payable under such subsection but for the borrower's lack of need. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a State or nonprofit private institution or organization as reimbursement under this subsection shall be equal to 80 per centum of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program.

(B) Any State or any nonprofit private institution or organization which has entered into a supplementary agreement under section 428A of this Act whereby the Commissioner agrees to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any such insured loan in an amount equal to 100 per centum of the amount expended by it in the discharge of its insurance obligation incurred under its loan insurance program, except that—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Commissioner under this subsection exceeds 5 per centum of the loans which are insured by such institution or organization under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 per centum of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments, exceed 9 per centum of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 per centum of the amount of such excess.

(C) For purposes of this subsection, the amount of loans of a State or nonprofit private institution or organization which are in repayment shall be the original principal amount of loans made by a lender which are insured by such an institution or organization reduced by (i) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (ii) the original principal amount of loans insured by it which have been fully repaid, and (iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to section 428(b)(1)(E) or such first installment need not be paid pursuant to section 428(b)(1)(M).

(2) The guaranty agreement—

(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program;

(B) shall provide for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Commissioner pursuant to this subsection, the undertaking of the Commissioner under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Commissioner has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Commissioner), there shall be paid over to the Commissioner (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to rights of any insurance beneficiary: *Provided*, That, except as the Commissioner may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for purposes of section 422(c); and

(F) may include such other provisions as may be necessary to promote the purposes of this part.

(3) To the extent provided in regulations of the Commissioner, a guaranty agreement under this subsection may contain provisions which permit such forebearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

(4) For purposes of this subsection, the terms "insurance beneficiary" and "default" shall have the meanings assigned to them by section 430(e).

(5) In the case of any guaranty agreement with a State or nonprofit private institution or organization with which the Commissioner has an agreement pursuant to subsection (b) of this section, the Commissioner may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such State, institution or organization and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6)(A) For the purpose of paragraph (2)(D) and for the purpose of section 428 A(b)(5) the Commissioner's equitable share of payments made by the borrower shall be that portion of the payments remaining after the State or the nonprofit private institution or organization with which the Commissioner has an agreement under this subsection has deducted from such payments (i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan and (ii) an amount equal to the administrative costs of collection of loans reimbursed under this subsection and the administrative costs of preclaims assistance for default prevention (as such terms are defined in subparagraph (B) of this subsection), to the extent such costs do not exceed 30 per centum of such payments and have not been reimbursed under subsection (f).

(B) For the purpose of this paragraph, the term—

(i) "administrative costs of collection of loans" means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of the compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable and

(ii) "administrative costs of preclaim assistance for default prevention" means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable,

subject to such additional criteria as the Commissioner may by regulation prescribe.

(7)(A) Notwithstanding paragraph (1)(B), the amount to be paid a State or a nonprofit private institution or organization for any fiscal year—

(i) which begins on or after the effective date of this paragraph; and

(ii) which is either the fiscal year in which such State, institution, or organization begins to actively carry on a student loan insurance program which is subject to a guarantee agreement under subsection (b) of this section, or is one of the four succeeding fiscal years,

shall be 100 per centum of the amount expended by such State, organization, or institution in discharge of its insurance obligation insured under such program.

(B) The Commissioner shall continuously monitor the operations of those States and nonprofit private institutions or organizations to which the provisions of subparagraph (A) are applicable and revoke the application of such subparagraph to any such State or nonprofit private institution or organization which he determines has not exercised reasonable prudence in the administration of such program.

(d) No provision of any law of the United States (other than sections 427(a)(2)(D) and 427(b) of this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of 7 per centum per annum, and

(2) which is insured (A) by the United States under this part, or (B) by a State or nonprofit private institution or organization under a program covered by an agreement made pursuant to subsection (b) of this section.

(e)(1) Each eligible institution shall be eligible to receive from the Commissioner the payment of $10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section, for that year. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 493A of this Act and then for such additional administrative costs as that institution determines necessary.

(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection. If the sums appropriated for any fiscal year for making payments under this subsection are not sufficient to pay in full the amounts provided for in paragraph (1), then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(f)(1)(A) The Commissioner is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has an agreement under subsection (b) of this section, for the purposes of—

(i) the administrative costs of promotion of commercial lender participation;

(ii) the administrative costs of collection of loans;

(iii) the administrative costs of preclaims assistance for default prevention; or

(iv) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(B) Except as provided in subparagraph (C), each State or nonprofit private institution or organization to which subparagraph (A) of this paragraph applies shall spend not less than ¼ of the payments received pursuant to this paragraph on the purposes described in clause (i) or subparagraph (A), not less than ½ of such payments on the purposes described in clauses (ii) and (iii) of subparagraph (A), and the remaining amount of such payments on the purpose described in clause (iv) of such subparagraph.

(C) For any State which is eligible to receive a reserve fund advance under section 422(c)(5)(B), the spending minimum required by subparagraph (B) with respect to purposes described in clauses (ii) and (iii) of subparagraph (A) shall, for the first year of such eligibility, not be applicable and shall, for the second and third years of such eligibility, be an amount equal to 20 per centum of the payments received under this paragraph.

(2) The Commissioner is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has a supplemental guaranty agreement under section 428A(a)(2) of this Act for the purposes of—

(i) the administrative costs of promotion of commercial lender participation;

(ii) the administrative costs of collection of loans;

(iii) the administrative costs of preclaims assistance for default prevention; or

(iv) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed an additional one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) For the purpose of this subsection, the term—

(A) "administrative costs of promotion of commercial lender participation" means any administrative costs incurred by an insurer which are directly related to supervising, training, or informing eligible lenders or prospective eligible lenders or inducing such lenders to improve or expand their program participation, and such costs may include (i) the costs of planning and executing instructional seminars and the costs of attending other meetings with lenders, (ii) the costs of obtaining or producing instructional or promotional materials or equipment for distribution to, or use with, lenders, (iii) postage costs associated with the distribution of instructional or promotional materials to lenders, (iv) an appropriate share of the costs of establishing branch offices to serve the needs of lenders which are geographically distant from such insurer's primary business location, and (v) an appropriate share of the compensation of personnel whose primary responsibility is the training, supervising, or recruiting of lenders, but not including personnel whose primary responsibilities are the performing or supervising such duties as relate to the routine processing of borrower applications for loans or the maintenance of supporting records but in no case shall any such costs include any overhead expenses of such insurer associated with the insurer's primary business location,

(B) "administrative costs of collection of loans" means any administrative costs incurred by a guaranty agency which are directly related to the collection of loans on which default claims have been paid to participating lenders, including the compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency, and

(C) "administrative costs of preclaim assistance for default prevention" means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to lenders on delinquent loans, prior to the loans being legally in a default status, including the compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities), fees paid to locate missing borrowers, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency.

subject to such additional criteria as the Commissioner may by regulation prescribe.

(4)(A) No payment may be made under paragraph (1) of this subsection unless the State or the nonprofit private institution or organization submits to the Commissioner an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

(i) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

(ii) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

(iii) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

(iv) set forth assurances that the State or the nonprofit private institution or organization will furnish such data and information, including where necessary estimates, as the Commissioner may reasonably require to carry out the provisions of this subsection.

(B) No payment may be made under paragraph (2) of this subsection unless the State or the nonprofit private institution or organization submits to the Commissioner an application, at such time, at least annually, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require. Each such application shall—

(i) set forth assurances that the student loan insurance program subject to the supplemental guaranty agreement complies with clauses (A) through (F) of paragraph (2) of section 428A(a);

(ii) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

(iii) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

(iv) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

(v) set forth assurances that the State or the nonprofit private institution or organization will furnish such data and information, including where necessary estimates, as the Commissioner may reasonably require to carry out the provisions of this subsection.

(g) If a nonprofit private institution or organization (1) applies to enter into an agreement with the Commissioner under subsections

(b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Commissioner does not have an agreement under subsection (b), and (2) as provided in the application, undertakes to meet the requirements of section 422(c)(6)(B)(i), (ii), and (iii), the Commissioner shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

(20 U.S.C. 1078) Enacted Nov. 8, 1965, P.L 89-329, Title IV, sec. 428, 79 Stat. 1240; amended Aug. 3, 1968, P.L. 90-460, sec. 1, 2, 3, 82 Stat. 634-638; amended Oct. 16, 1968, P.L. 90-575, Title I, sec. 111, 112, 113, 115, 116. 117, 1220, 82 Stat. 1020-27; amended June 23, 1972, P.L. 92-318, sec. 132(b), 86 Stat. 261; further amended June 23, 1972, P.L. 92-318, sec. 132C (a) and (b), 86 Stat. 262, 263; section 428(e) repealed June 23, 1972, P.L. 92-318, sec. 132D(c), 86 Stat. 264; amended April 18, 1974, P.L. 93-269, 88 Stat. 87, 89; amended June 30, 1976, P.L. 94-328, sec. 2(b), 90 Stat. 727; amended Oct. 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2108-2120; amended June 15, 1977, P.L. 95-43, sec. 1(a)(19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), 91 Stat. 214, 215, 216; amended November 1, 1978, P.L. 95-566, sec. 5(a)(2), (b)(1), (b)(3)-(5), 92 Stat. 2403.

LOAN INSURANCE SUPPLEMENTAL GUARANTY AGREEMENT

Sec. 428A. (a)(1) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1) whereby the Commissioner shall undertake to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, in an amount determined in accordance with section 428(c)(1)(B), if the Commissioner determines that the student loan insurance program—

(A) authorizes the insurance of loans in any amount up to a maximum of $2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student) to any individual student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Commissioner) in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of $7,500 in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a state or nonprofit institution or organization with which the Commissioner has an agreement under this part, made to such person before he became a graduate or professional student);

(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or not such loans are eligible for interest subsidies under this part;

(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization;

(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State and if such a student is accepted for enrollment in or is attending an eligible institution outside that State;

(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program, unless (i) that institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution; and

(F) provides (i) for the eligibility of the eligible institutions as lenders under reasonable criteria, unless (I) that eligible institution is eliminated as the lender under regulations for the limitation, suspension, or termination of eligible instititutions under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligiblity as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of such an institution as a lender, and (ii) assurances that the State or nonprofit private institution or organization will report to the Commissioner not later than July 1, 1977, and annually thereafter, concerning such criteria including any special requirements for the eligibility of such lenders, procedures in effect under such program to limit, suspend, or terminate such lenders, a list of applications of such lenders, a summary of actions taken on such applications, and a list of the names of all such lenders within the State.

(2) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1) for the purpose of qualifying such State or nonprofit private institution or organization for payment of administrative cost allowances under section 428(f)(2) if the Commissioner determines that the student loan insurance program—

(A) authorizes the insurance of loans in any amount up to a maximum of $2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student) to any individual student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Commissioner) in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of $7,500 in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part, made to such person before he became a graduate or professional student);

(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or not such loans are eligible for interest subsidies under this part;

(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization;

(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State, or if such a student is accepted for enrollment in or is attending an eligible institution within that State;

(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for eligible institutions under the Federal student loan insurance program, unless (i) that eligible insititution is ineligible under regulations for the limitations, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution;

(F) provides (i) for the eligibility of the eligible institutions as lenders under reasonable criteria, unless (I) that eligible institution is eliminated as a lender under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of such an institution as a lender, and (ii) assurances that the State or nonprofit private institution or organization will report to the Commissioner not later than July 1, 1977, and annually thereafter, concerning such criteria, including any special requirements for the eligibility of such lenders, procedures in effect under such program to limit, suspend, or terminate such lenders, a list of applications of such lenders, a summary of actions taken on such applications, and a list of the names of all such lenders within the State.

(b) Each supplemental guaranty agreement entered into under subsection (a)—

(1) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to insure that due diligence will be exercised in the collection of loans insured under the program;

(2) shall set forth adequate assurance that the requirements of paragraph (1) or paragraph (2) of subsection (a) of this section, as the case may be, are met;

(3) shall provide for the making of such reports, in such form, and containing such information as the Commissioner may reasonably require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

(4) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Commissioner pursuant to subsection (a) of this section, the undertaking of the Commissioner under the supplemental guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(5) shall provide that if, after the Commissioner has made payment under the supplemental guaranty agreement pursuant to this section with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Commissioner), there shall be paid over to the Commissioner (for deposit in the fund established by section 431) such portion of the amount of such payments as is determined (in accordance with regulations prescribed by the Commissioner consistent with section 428(c)(6)) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary: *Provided*, That, except as the Commissioner may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan; and

(6) may include such provisions as may be necessary to promote the purposes of this part.

(c)(1) To the extent provided in regulations of the Commissioner, a supplemental guaranty agreement under this section may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

(2) For purposes of this section, the terms "insurance beneficiary" and "default" shall have the meanings assigned to them by section 430(e).

(20 U.S.C. 1078-1) Enacted October 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2120, 2121, 2122, 2123; amended June 15, 1977, P.L. 95-43, sec. 1(a)(30), (31), (32), 91 Stat. 216.

CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

SEC. 429. (a)(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Commissioner may require, and otherwise in conformity with this section, the Commissioner finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Commissioner is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon sixty days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

(3) An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Commissioner pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Commissioner may prescribe by or pursuant to regulation.

(b)(1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Commissioner may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Commissioner, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Commissioner's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Commissioner and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Commissioner from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Commissioner in the absence of fraud or misrepresentation of fact or patent error.

(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Commissioner may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

(c) The Commissioner shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 per centum per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Commissioner. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Commissioner has made such payment on his own motion pursuant to section 430(a).

(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Commissioner.

(e) The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Commissioner may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Commissioner may amend that certificate accordingly.

(20 U.S.C. 1079) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, Sec. 429, 79 Stat. 1243; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2123, 2124, 2125.

DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

SEC. 430. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Commissioner, and the Commissioner shall if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount had been determined. The "amount of the loss" on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Commissioner) to the date on which payment is authorized by the Commissioner, reduced to the extent required by section 425 (b). Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan.

(b) Upon payment of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Commissioner on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured. The Commissioner may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Commissioner in making such recovery. Any contract under this subsection entered into by the Commissioner shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

(c) Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Commissioner, or to preclude forbearance by the Commissioner in the enforcement of the insured obligation after payment on that insurance.

(d) Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Commissioner, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(e)[1] As used in this section—

(1) the term "insurance beneficiary" means the insured or its authorized representative assigned in accordance with section 429(d); and

(2) the term "default" includes only such defaults as have existed for (A) one hundred and twenty days in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days in the case of a loan which is repayable in less frequent installments.

(20 U.S.C. 1080) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, sec. 430, 79 Stat. 1244; amended Oct. 16, 1968, P.L. 90-575, Title I, sec. 113, 82 Stat. 1021; amended June 23, 1972, P.L. 92-318, sec. 132(B)(c), 86 Stat. 262; amended October 12, 1976, P.L. 94-482, Title I, sec. 127(a), 90 Stat. 2125, 2126; amended June 15, 1977, P.L. 95-43, sec. 1(a)(33), 91 Stat. 216.

INSURANCE FUND

SEC. 431. (a) There is hereby established a student loan insurance fund (hereinafter in this section called the "fund") which shall be available without fiscal year limitation to the Commissioner for making payments in connection with the default of loans insured by him under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Commissioner as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Commissioner in connection with his operations under this part, any excess advances under section 422(c)(4)(C), and any other moneys, property, or assets derived by the Commissioner from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Commissioner under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Commissioner under this part, or in connection with any guaranty agreement made under section 428(c) or 428A(a)(1), the Commissioner is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from such fund.

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[1] Apparent technical error in slip law makes subsection (e) appear to be a part of P.L. 94-482 and not a part of Section 430

(20 U.S.C. 1081) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, sec. 431, 79 Stat. 1245; amended Aug. 3, 1968, P.L. 90-460, sec. 3, 82 Stat. 638; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2126, 2127.

LEGAL POWERS AND RESPONSIBILITIES

SEC. 432. (a) In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Commissioner may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Commissioner shall survive notwithstanding any change in the person occupying the office of Commissioner or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Commissioner or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of section 509, 517, 547, and 2679 of title 28 of the United States Code;

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Commissioner determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this part may be modified by the Commissioner if he determines that modification is necessary to protect the financial interest of the United States;

(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument

evidencing a loan which has been insured by him under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guarantee agreement under section 428(c); and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

(b) The Commissioner shall, with respect to the financial operations arising by reason of this part—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

(2) maintain with respect to insurance under this part an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Commissioner, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Commissioner in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

(c)(1)(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Commissioner and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

(C) The Commissioner may designate such additional subcategories within the categories specified in subparagraph (B) as he deems appropriate.

(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

(2)(A) The Commissioner shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Commissioner, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

(3) For purposes of clarity in communications, the Commissioner shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

(d)(1) The functions of the Commissioner under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Office of Education established pursuant to section 403(c)(2) of the General Education Provisions Act.

(2) The functions which may be delegated pursuant to this subsection are—

(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Commissioner, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Commissioner issued under section 432(a)), and recommending litigation with respect to any such claim.

(20 U.S.C. 1082) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, sec. 432, 79 Stat. 1246; amended Aug. 3, 1968, P.L. 90-460, sec. 3, 82 Stat. 638; amended Oct. 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2127, 2128, 2129.

INSTITUTIONAL LENDERS

SEC. 433. (a)(1) An eligible institution may not act as an eligible lender or originate loans under this part unless it has in effect an agreement with the Commissioner under which it agrees (A) to make such loans to no more than 50 per centum of the students in attendance at the institution who are not graduate or professional students (as defined in regulations of the Commissioner), and (B) that it will not make such a loan under this part to a student, other than a graduate or professional student (as defined in regulations of the Commissioner), who has not previously received a loan from such institution until such student has provided the institution with either (i) a statement from an eligible lender (other than an eligible institution or a State or an agency of a State or a private nonprofit agency designated by a State) that the borrower sought a loan from it and was denied such loan, or (ii) a sworn statement by the borrower that the lender from which he sought such a loan declined to provide the statement described in clause (i).

(2) Whenever the Commissioner determines that the termination of the eligible institution's status as a lender under clause (A) of paragraph (1) would be a hardship to the present or prospective students of the eligible institution after considering the management of that institution, the opportunities that institution provides

to economically disadvantaged students, and related factors, the Commissioner shall waive the provisions of such paragraph with respect to that institution.

(b)(1) An eligible institution shall be deemed to have originated a loan for purposes of this section if it has had delegated to it by an eligible lender a substantial portion of the functions and responsibilities normally performed by a lender prior to the making of a loan, such as interviewing the applicant for the loan, explaining the applicant's responsibilities under the loan, obtaining completion of necessary forms, obtaining necessary documentation, or verifying that the student is eligible for the loan.

(2) For purposes of this section, a loan is made or originated on the date of the first disbursement of any proceeds of the loan.

(20 U.S.C. 1083) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, sec. 433, 78 Stat. 1247; amended Oct. 16, 1968, P.L. 90-575, Title I, sec. 116, 82 Stat. 102; amended June 23, 1972; P.L. 92-318; sec. 132(c), 86 Stat. 261; amended Oct. 12, 1976, P.L. 94-482, Title I, Part D, sec. 127 (a), 90 Stat. 2129; amended June 15, 1977, P.L. 95-43, sec. 1(a)(34), 91 Stat. 216.

PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

SEC. 434. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(C).

(20 U.S.C. 1084) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, sec. 434, 79 Stat. 1247; amended Oct. 16, 1969, P.L. 90-575, Title I, sec. 116, 82 Stat. 1024; amended June 23, 1972, P.L. 92-318, sec. 132 D(e), 86 Stat 264; amended Oct. 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2129, 2130.

DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM

SEC. 435. As used in this part:

(a) The term "eligible institution" means (1) an institution of higher education, (2) a vocational school, or (3) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Commissioner for purposes of this part, except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 428(a)(1) at that institution or school.

(b) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, or who are beyond the age of compulsary school attendance, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time or, (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term includes any public or other nonprofit collegiate or associate degree school of nursing and any school which provides not less than one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). If the Commissioner determines that a particular category of such schools does not meet the requirements of clause (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, he shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of clause (5) meet those standards. For purposes of this subsection the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(c) The term "vocational school" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (3) has been in existence for two years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (4) is accredited (A) by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this clause, (B) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this clause and (C) if the Commissioner determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards. For the purpose of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

(d) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

(e) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(f) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education.

(g)(1) Except as provided in paragraphs (2), (3), and (4), the term "eligible lender" means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, or a credit union which—

(i) is subject to examiniation and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless it is a bank which is wholly owned by a State;

(B) a pension fund as defined in the Employee Retirement Income Security Act;

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

(E) an eligible institution which meets the requirements of paragraphs (2), (3), and (4) of this subsection and which has signed an agreement pursuant to section 433; and

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market.

(2) To be an eligible lender under this part, an eligible institution—

(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution; and

(B) shall not be a home study school.

(3) The term eligible lender does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Commissioner determines, after notice and opportunity for a hearing, that for each of two consecutive years a 15 per centum or more of the total amount of such loans as are described in section 428(a)(1) made by the institution with respect to students at that institution and repayable in each such year is in default, as defined in section 430(e)(2).

(4) Whenever the Commissioner determines that—

(A) there is reasonable possibility that an eligible institution may, within one year after a determination is made under paragraph (3), improve the collection of loans described in section 428(a)(1), so that the application of paragraph (3) would be a hardship to that institution, or

(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Commissioner shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Commissioner prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Commissioner grants a waiver pursuant to this paragraph he shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

(h) The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(i) The term "due diligence" requires the utilization by a lender, in the servicing and collection of loans insured under this part, of collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

(20 U.S.C. 1085) Enacted Nov. 8, 1965, P.L. 89-329, Title IV, sec. 435, 79 Stat. 1247; as amended Oct. 29, 1966, P.L. 89-698, Title II, sec. 204, 80 Stat. 1072; amended Oct. 16, 1968, P.L. 90-575, Title I, secs. 116, 118, 82 Stat. 1023-26; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2130, 2131; amended June 15, 1977, P.L. 95-43, sec. 1 (a)(35), (a)(36), 91 Stat. 216.

DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM

SEC. 436. (a) The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Commissioner for the purposes of this title, (2) to enter into such agreements with the Commissioner, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

(b) Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid note or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

(c) There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

(20 U.S.C. 1086) Enacted Nov. 3, 1966, P.L. 89-752, sec. 12, 80 Stat. 1244; amended Oct. 16, 1968, P.L. 90-575, Title I, sec. 116, 82 Stat. 1024; amended Oct. 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2132, 2133.

REPAYMENT BY THE COMMISSIONER OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS

SEC. 437. (a) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Commissioner), then the Commissioner shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(b) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) is relieved of his obligation to repay such loan, in whole or in part, through a discharge in bankruptcy, the Commissioner shall repay the amount of the loan so discharged.

(20 U.S.C. 1087) Enacted Oct. 16, 1968, P.L. 90-575, Title I, sec. 113, 82 Stat. 1020; amended June 23, 1972, P.L. 92-318, sec. 132D, 86 Stat. 263; amended Oct. 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2133.

SPECIAL ALLOWANCES

SEC. 438.[1] (a) In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, and (4) that particpating lenders will have a better and more accurate way of assessing the rate of such payments for current and prospective quarters, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowance on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowance.

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[1] Section 133(b) of Part D of Title I of P.L. 94-482 reads as follows:

"(1) Any regulations for the carrying out of section 438, as in effect on the date immediately prior to the effective date of this subsection shall be deemed to remain in force until amended or superseded by new regulations of the Commissioner.

"(2) Within 120 days of the effective date of this subsection, the Commissioner is directed to issue a comprehensive revision of the regulations heretofore prescribed for the carrying out of section 438, for the purpose of modifying such regulations, to the extent possible, to make them applicable to all programs under title IV of the Act."

(b)(1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2)(A) Subject to subparagraphs (B) and (C) and paragraph (4), the special allowance paid pursuant to this subsection shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 3.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

(B) Except as provided in paragraph (4), if the special allowance computed according to subparagraph (A) would (i) cause the special allowance for any twelve-month period during the period ending September 30, 1977, to exceed 3 per centum, the special allowance rate to be paid for such period shall be reduced to the highest one-eighth of 1 per centum rate interval which would not cause such excess.

(C) Except as provided in paragraph (4), if the special allowance computed according to subparagraph (A) would (i) cause the special allowance for any twelve-month period after October 1, 1977, to exceed 5 per centum, the special allowance rate to be paid for such period shall be reduced to the highest one-eighth of 1 per centum rate which would not cause such excess.

(3) Subject to paragraph (4) the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section. The holder of a loan with respect to which any such allowance is to be paid shall be deemed to have a contractual right, as against the United States, to receive such allowance from the Commissioner.

(4)(A) If payment of the special allowance payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Commissioner has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

(B) Such daily interest shall be computed at the daily equivalent rate of the special allowance rate computed pursuant to paragraph (2) plus 7 per centum and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date of which the Commissioner authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

(5) As used in this section, the term "eligible loan" means a loan which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

(6) The Commissioner shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Commissioner, at such time or times and in such a manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary and the Commissioner to carry out their functions under this section and to carry out the purposes of this section.

(c) The Commissioner shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of students. Regulations issued under section 2(a)(6)(B)(ii) of the Emergency Insured Student Loan Act of 1969 shall remain in effect until superseded or amended under this subsection, but no payments shall be made under such Act after the effective date of this section.

(d) There are authorized to be appropriated such sums as may be necessary for special allowances authorized by this section.

(e) In order to assure (i) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return of holders of loans to be less than equitable, (ii) that incentive payments on such loans are paid promptly to eligible lenders, (iii) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, and (iv) that participating lenders will have a better and more accurate way of assessing the rate of such payments for current and prospective quarters, there is established a Committee on the Process of Determining Student Loan Special Allowances (hereinafter in this section referred to as the "Committee"). The Committee shall be composed of—

(1) the Commissioner of Education;

(2) the Secretary of Health, Education, and Welfare;

(3) the Secretary of Treasury;

(4) a representative of State and nonprofit private institutions and organizations participating under an agreement under section 428(b);

(5) a student financial aid administrator of an eligible institution (as defined in section 435(g)(2));

(6) a business officer of an eligible institution (as defined in section 435(g)(2));

(7) a representative of participating eligible lenders other than one defined in section 435(g)(1)(E);

(8) a student at an eligible institution (as defined in section 435(g)(2)); and

(9) a representative of the Student Loan Marketing Association, designated by the Board of Directors of the Association.

(f) The Commissioner shall appoint the members of the Committee described in paragraphs (4), (5), (6), (7), and (8) of subsection (e) of this section, after consultation in the case of those members appointed under each such paragraph, with nationally recognized organizations of such persons or agencies.

(g)(1) No later that October 1, 1977, the Committee shall prepare and submit to the President of the Senate and the Speaker of the House of Representatives a report of their findings and recommendations for an improved method or methods for the determination of the quarterly rate of the special allowance paid under this Act which they believe will carry out the objectives set forth in subsection (a) of this section.

(2) The Committee shall make every effort to reach a unanimous decision with respect to the method for the determination of the quarterly rate of the special allowance established under this section.

(3) In developing the method for the determination of the quarterly rate of the special allowance under this section, the Committee shall consider—

(A) the experiences of students, and eligible lenders under the method prescribed in this section, and under the method in operation prior to the enactment of this section,

(B) the administrative costs of various types of eligible lenders under this part,

(C) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under this part, or substitute financial indicators which equitably represent the cost of such capital,

(D) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowance, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowance to eligible lenders, and

(E) such other factors as the Committee considers necessary to carry out the purposes of this section.

(4) In carrying out its responsibilities under this section, the Committee shall be given the full cooperation and assistance of the official in the Office of Education directly responsible for the administration of this part B of title IV of the Higher Education Act of 1965 and such other appropriate officials of the Office of Education as the Committee deems appropriate.

(5) In order to assist the Committee to carry out its functions under this section, the Commissioner of Education is authorized to hire consultants, and to enter into contracts, and pay the costs of such contracts from funds regularly appropriated for the purpose of administering programs authorized by this part.

(6) The Commissioner of Education shall convene the first session of the Committee within sixty days after the date of enactment of the Education Amendments of 1976. The Chairman of the Committee shall be selected by those members who are not officials of the Federal Government from among themselves.

(7) The Committee is not authorized to employ permanent employees or to lease or obtain the use of permanent offices or to take other steps to extend its period of service beyond the time necessary to complete its responsibilities under this section.

(8) The Committee shall cease to exist ten days after the submission of the report prescribed in paragraph (1) of this subsection.

(20 U.S.C. 1087-1) Enacted June 23, 1972, P.L. 92-318, sec. 132E(a), 86 Stat. 264; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 127(a), 90 Stat. 2133, 2134, 2135, 2136; amended June 15, 1977, P.L. 95-43, sec. 1(a)(37) (A), (B), (C), (D), (E), (F), 91 Stat. 216, 217.

STUDENT LOAN MARKETING ASSOCIATION

SEC. 439. (a) The Congress hereby declares that it is the purpose of this section (1) to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans, insured by the Commissioner under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b), and which will provide liquidity for student loan investments; and (2) in order to facilitate secured transactions involving insured student loans, to provide for perfection of security interests in insured student loans either through the taking of possession or by notice filing.

(b)(1) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the "Association"). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 per centum, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c)(1) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

(2) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

(3) When, in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

(4) At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

(5) The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(6) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

(d)(1) The Association is authorized, subject to the provisions of this section, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Asssociation, student loans which are insured by the Commission under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b).

(2) Any warehousing advance made under paragraph (1) of this subsection shall not exceed 80 per centum of the face amount on an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

(3) Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by said State law for perfection of security interests in accounts.

(e) The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (A) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $50,000,000 in deposits, and (B) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f)(1) The Association shall have common stock having a par value of $100 per share which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions as defined in section 435(a) (other than an institution outside of the United States).

(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in subsection (c)(3).

(3) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary of Health, Education, and Welfare, and, as to the Association, only on the books of the Association. The Secretary of Health, Education, and Welfare shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any one time.

(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(g)(1) The Association is authorized, with the approval of the Secretary of Health, Education, and Welfare, to issue nonvoting preferred stock with a par value of $100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h)(1) The Association is authorized with the approval of the Secretary of Health, Education, and Welfare and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

(2) The Secretary of Health, Education, and Welfare is authorized, prior to July 1, 1982,[1] to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

(3) To enable the Secretary of Health, Education, and Welfare to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of Health, Education, and Welfare with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(i) The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

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[1] This date was changed to October 1, 1982, by Sec. 3(9) of P.L. 94-273 (Enacted April 21, 1976), 90 Stat. 376.

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of Health, Education, and Welfare, and to the Association.

(l) All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

(m) In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

(n) The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

(20 U.S.C. 1087-2) Enacted June 23, 1972, P.L. 92-318, sec. 133(a), 86 Stat. 265, 269; amended April 21, 1976, P.L. 94-273, Sec. 3(9), 90 Stat. 376; amended October 12, 1976, P.L. 94-482, Title I, Part D, Sec. 127(a), 90 Stat. 2136-2141; amended June 15, 1977, P.L. 95-43, sec. 1(a)(38), 91 Stat. 217.

FIVE-YEAR NONDISCHARGEABILITY OF CERTAIN LOAN DEBTS

[Sec. 439A.[1] (a) A debt which is a loan insured or guaranteed under the authority of this part may be released by a discharge in bankruptcy under the Bankruptcy Act only if such discharge is granted after the five-year period (exclusive of any applicable suspension of the repayment period) beginning on the date of commencement of the repayment period of such loan, except that prior to the expiration of that five-year period, such loan may be released only if the court in which the proceeding is pending determines that payment from future income or other wealth will impose an undue hardship on the debtor or his dependents.

(b) Subsection (a) of this section shall be effective with respect to any proceedings begun under the Bankruptcy Act on or after September 30, 1977.]

(20 U.S.C. 1087-3), enacted October 12, 1976, P.L. 94-482, Title I, Part D, Sec. 127(a), 90 Stat. 2141.

Sec. 439B. Any loan under this part may be counted as part of the expected family contribution in the determination of need for parts A, C, and E of this title, notwithstanding any other provisions of parts A, C, and E.[2]

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[1] Section 439A was repealed by section 317 of the Act of November 6, 1978, entitled "An Act to Establish a Uniform Law on the Subject of Bankruptcy".

CRIMINAL PENALTIES

Sec. 440. (a) Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets or property provided or insured under this part shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall be not more than $1,000 and imprisonment shall not exceed one year, or both.

(b) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with an application for a finding by the Commissioner under section 435(b)(4)(A) or (B), for the purpose of qualifying an educational institution as an eligible institution under this part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

(c) Any person who knowingly and willfully makes any false statement to, furnishes any false information to, or conceals any material information in connection with the assignment of a loan, which is insured under this part, to another eligible lender, shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

(d) Any person who knowingly and willfully makes an unlawful payment to an eligible lender as an inducement to make, or to acquire by assignment, a loan insured under this part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

(e) Any person who knowingly and willfully destroys any application for a loan which is insured under this part, any application for insurance of a loan under this part, or destroys or conceals any other record relating to the making or insuring of loans under this part with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

(20 U.S.C. 1087-4) Enacted October 12, 1976, Title I, Part D, sec. 127(a), 90 Stat. 2141, 2142.

PART C—WORK-STUDY PROGRAMS[1]

STATEMENT OF PURPOSE; APPROPRIATIONS AUTHORIZED

Sec. 441. (a) The purpose of this part is to stimulate and promote the part-time employment of students, particularly students with great financial need in eligible institutions who are in need of the earnings from such employment to pursue courses of study at such institutions.

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[2] (20 U.S.C. 1087-3a), enacted November 1, 1978, P.L. 95-566, sec. 8., 92 Stat. 2404.

[1] Section 201(13) of Title II of Public Law 94-274 (Enacted April 21, 1976, 90 Stat. 383) provides that the period of July 1, 1976 through September 30, 1976 shall be teated as a fiscal year for the purpose of part C of Title IV of the Higher Education Act of 1965. But Section 2(e) of P.L. 94-328 (Enacted June 30, 1976, 90 Stat. 727) reads as follows:

"For the purposes of section 446(b) of the Higher Education Act of 1965, the period beginning July 1, 1976, and ending September 30, 1977 shall be treated as one fiscal year, any other provision of the law to the contrary notwithstanding."

(b) There are authorized to be appropriated $225,000,000 for the fiscal year ending June 30, 1969, $275,000,000 for the fiscal year ending June 30, 1970, $320,000,000 for the fiscal year ending June 30, 1971, $330,000,000 for the fiscal year ending June 30, 1972, $360,000,000 for the fiscal year ending June 30, 1973, $390,000,000 for the fiscal year ending June 30, 1974, $420,000,000 for the fiscal year ending June 30, 1975, $420,000,000 for the fiscal year ending June 30, 1976, and the transitional period beginning July 1, 1976, and ending September 30, 1976, $450,000,000 for the fiscal year ending September 30, 1977, $570,000,000 for the fiscal year ending September 30, 1978, $600,000,000 for the fiscal year ending September 30, 1979, $630,000,000 for the fiscal year ending September 30, 1980, $670,000,000 for the fiscal year ending September 30, 1981, and $720,000,000 for the fiscal year ending September 30, 1982.

(42 U.S.C. 2751) Enacted Aug. 20, 1964, P.L. 88-452, Title I, sec. 121, 78 Stat. 515; amended Nov. 8, 1965, P.L. 89-329, Title IV, sec. 441(2), 79 Stat. 1249; amended Oct. 16,1968, P.L. 90-575, TItle I, sec. 131, 132, 133, 82 Stat. 1028-1029; amended Oct. 22, 1969, P.L. 91-95, sec. 5, 83 Stat. 143; amended June 23, 1972; P.L. 92-318, sec. 135 and sec. 135A, 86 Stat. 270; amended October 12, 1976. P.L. 94-482, Title I, Part D, sec. 128(a), 90 Stat. 2143.

ALLOTMENTS TO STATES

SEC. 442. (a) From the sums appropriated to carry out this part for a fiscal year, the Commissioner shall (1) allot not to exceed 2 per centum among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs for assistance under this part, and (2) reserve the amount provided by subsection (e). Ninety per centum of the remainder of such sums shall be allotted among the States as provided in subsection (b).

(b) Of the sums being allotted under this subsection—

(1) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all the States,

(2) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 103(d)(3) of the Higher Education Facilities Act of 1963) of such State bears to the total number of such high school graduates of all the States, and

(3) one-third shall be allotted by him among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in such State bears to the number of related children under eighteen

years of age living in families with annual incomes of less than $3,000 in all the States.

(c) Sums remaining after making the allotments provided for in other provisions of this section shall be allotted among the States by the Commissioner in accordance with equitable criteria established by him which shall be designed to achieve a distribution of the sums appropriated to carry out this part among the States which will most effectively carry out the purpose of this part, except that where a State's allotment under subsection (b) for a fiscal year is less than its allotment under that subsection for the fiscal year ending June 30, 1972, before he makes any other allotments under this subsection, the Commissioner shall allot sufficient additional sums to such State under this sentence to make the States allotment for that year under subsection (b) equal to its allotment under such subsection for the fiscal year ending June 30, 1972. Sums allotted to a State under this subsection shall be consolidated with, and become a part of, its allotment from the same appropriation under subsection (b).

(d) The amount of any State's allotment which has not been granted to an eligible institution under section 443 at the end of the fiscal year for which appropriated shall be reallotted by the Commissioner in such manner as he determines will best assist in achieving the purposes of this Act. Amounts reallotted under this subsection shall be available for making grants under section 443 until the close of the fiscal year next succeeding the fiscal year for which appropriated.

(e) For purposes of this section, the term "State" does not include Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(f) From the appropriation for this part for each fiscal year the Commissioner shall reserve an amount to provide work-study assistance to students who reside in, but who attend eligible institutions outside of, American Samoa or the Trust Territory of the Pacific Islands. The amount so reserved shall be allotted to eligible institutions and shall be available only for the purpose of providing work-study assistance to such students.

(42 U.S.C. 2752) Enacted Aug. 20, 1964, P.L. 88-452, Title I, sec. 122, 78 Stat. 514; amended Nov. 8, 1965, P.L. 89-329, Title IV, sec.441(1), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90-575, Title I, sec. 131, 135, 82 Stat. 1028-1029; amended June 23, 1972, P.L. 92-318, sec. 135B, 86 Stat. 270, 271.

GRANTS FOR WORK-STUDY PROGRAMS

SEC. 443. (a) The Commissioner is authorized to enter into agreements with eligible institutions under which the Commissioner will make grants to such institutions to assist in the operation of work-study programs as hereinafter provided.

(b) For the purposes of this part the term "eligible institution" means an institution of higher education (as defined in section in section 435(b) of this Act), an area vocational school (as defined in section 8(2) of the Vocational Education Act of 1963), or a proprietary institution of higher education (as defined in section 491(b) of this Act), and includes a combination of such institutions which have entered into a cooperative arrangement, or have designated or created a public or private nonprofit agency, institution, or organization to act on their behalf.

(42 U.S.C. 2753) Enacted Aug. 20, 1964; P.L. 88-452, Title I, sec. 123, 78 Stat. 514; amended Nov. 8, 1965, P.L. 89-329, Title IV, sec 441(3), 79 Stat. 1249; amended Oct. 16,1968, P.L. 90-575, Title I, secs. 131, 133, 139, 82 Stat. 1028-1030; amended October 12, 1976, P.L. 94-482, Title I, Part D, Sec. 128(b) 90 Stat. 2143.

CONDITIONS OF AGREEMENTS

SEC. 444. (a) An agreement entered into pursuant to section 443 shall—

(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself (except in the case of a proprietary institution of higher education) or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

(A) will not result in the displacement of employed workers or impair existing contracts for services,

(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee, and

(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship;

(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet the administrative expenses in accordance with section 493 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 447 of this part, and may transfer funds in accordance with the provisions of section 496 of this Act;

(3) provide that in the selection of students for employment under such work-study program preference shall be given to students with the greatest financial need, taking into account grant assistance provided such student from any public or private sources, and that employment under such work-study program shall be furnished only to a student who (A) is in need of the earnings from such employment in order to pursue a course of study at such institution (taking into consideration the actual cost of attendance at such institution), (B) shows evidence of academic or creative promise and capability of maintaining good standing in such course of study while employed under the program covered by the agreement, and (C) has been accepted for enrollment as a student at the institution on at least a halftime basis or, in the case of a student already enrolled in and attending the institution, is in good standing and in attendance there on at least a halftime basis either as an undergraduate, graduate, or professional student;

(4) provide that no student in a work-study program under this part shall be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any additional employment together with such work-study income is in excess of the determination of the amount of such student's need for that semester under clause (3) of this subsection, but when such excess income equals $200 or more, continued employment under a work-study program shall not be subsidized with funds appropriated under this part;

(5) provide that the institution will meet the requirements of section 494 of this Act (relating to maintenance of effort);

(6) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement will not exceed 80 per centum of such compensation; except that the Federal share may exceed 80 per centum of such compensation if the Commissioner determines, pursuant to regulations adopted and promulgated by him establishing objective criteria for such determinations, that a Federal share in excess of 80 per centum is required in furtherance of the purposes of this part;

(7) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment; and

(8) include such other provisions as the Commissioner shall deem neccessary or appropriate to carry out the purposes of this part.

(b) An agreement entered into pursuant to section 443 with an area vocational school shall contain, in addition to the provisions described in subsection (a) of this section, a provision that a student in such a school shall be eligible to participate in a program under this part only if he (1) has a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, and (2) is pursuing a program of education or training which requires at least six months to complete and is designed to prepare the student for gainful employment in a recognized occupation.

(c) For purposes of paragraph (4) of subsection (a) of this section, in computing average hours of employment of a student over a semester or other term, there shall be excluded any period during which the student is on vacation and any period of nonregular enrollment. Employment under a work-study program during any such period of nonregular enrollment during which classes in which the student is enrolled are in session shall be only to the extent and in accordance with criteria established by or pursuant to regulations of the Commissioner.

(42 U.S.C. 2754) Enacted Aug. 20, 1964, P.L. 88-452, Title I, sec. 124, 78 Stat. 514; amended Oct. 9, 1965, P.L. 89-253, sec. 19, 79 Stat. 974; amended Nov. 8, 1965; P.L. 89-329, Title IV, sec. 441(1), (4), (5), 79 Stat. 1249, 1250; amended Sept. 6, 1967, P.L. 90-82, secs. 1, 2, 81 Stat. 194; amended Oct. 16, 1968, P.L. 90-575, Title I, secs. 131, 133, 134, 136, 137, 138, 139, 82 Stat. 1028-1030; amended and clause (4) repealed June 23, 1972 P.L. 92-318, secs. 135D, 135E, 86 Stat. 271; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 128(c), 90 Stat. 2143.

SOURCES OF MATCHING FUNDS

SEC. 445. Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part, and such share may be paid to such student in the form of services and equipment (including tuition, room, board, and books) furnished by such institution.

(42 U.S.C. 2755) Enacted Aug. 20, 1964, P.L. 88-452, Title I, sec. 125, 78 Stat. 516; amended Nov. 8, 1966, P.L. 89-329; Title IV, sec. 441(6), 79 Stat. 1250; amended Oct. 16, 1968, P.L. 90-575, Title I, sec. 131, 82 Stat. 1028.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 446. (a) The Commissioner shall establish criteria designed to achieve such distribution of assistance under this part among institutions of higher education within a State as will most effectively carry out the purposes of this Act.

(b) Sums granted to an eligible institution under this part for any fiscal year which are not needed by that institution to operate work-study programs during the period for which such funds are available shall remain available to the Commissioner for making grants under section 443 to other institutions in the same State until the close of the fiscal year next succeeding the fiscal year for which such funds were appropriated.[1] [2]

(42 U.S.C. 2756) Enacted Aug. 20, 1964, P.L. 88-452, Title I, sec. 126, 78 Stat. 516; amended Nov. 8, 1965, P.L. 89-329, Title IV, sec. 441(1), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90-575, Title I, sec. 131, 82 Stat. 1028; amended June 28, 1975, P.L. 94-43, sec. 2, 89 Stat. 233.

JOB LOCATION AND DEVELOPMENT PROGRAMS

SEC. 447. (a) The Commissioner is authorized to enter into agreements with eligible institutions under which such institution may use not more than 10 per centum or $15,000 of its allotment under section 446, whichever is less, to establish or expand a program under which such institution, separately, in combination with other eligible institutions, or through a contract with a nonprofit organization, locates and develops jobs for currently enrolled students which are suitable to the scheduling and other needs of such students.

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[1] Section 5(a) of P.L. 94-43 provides that this subsection shall be effective with respect to appropriations for fiscal years beginning after June 30, 1974.

[2] Section 2(e) of P.L. 94-328 (Enacted June 30, 1976, 90 Stat. 727) reads as follows:

"For the purposes of section 416(b) of the Higher Education Act of 1965, the period beginning July 1, 1976, and ending September 30, 1977, shall be treated as one fiscal year, any other provision of the law to the contrary notwithstanding."

(b) Agreements under subsection (a) shall—

(1) provide that the Federal share of the cost of any program under this section will not exceed 80 per centum of such cost;

(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution;

(3) provide satisfactory assurance that the institution will continue to spend in its own job location and development programs, from sources other than funds received under this section, not less than the average expenditures per year made during the most recent three fiscal years preceding the effective date of the agreement;

(4) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

(5) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

(6) provide satisfactory assurance that Federal funds used for the purposes of this section can realistically be expected to help generate student wages exceeding in the aggregate the amount of such funds and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

(7) provide that the institution will submit to the Commissioner an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.

(42 U.S.C. 2756a) Enacted June 23, 1972, P.L. 92-318, sec. 135F, 86 Stat. 271, 272; amended October 12, 1976, Title I, Part D, sec. 128(d), 90 Stat. 2143, 2144.

Part D—Vacant

(Part D—Cooperative Education stricken by P.L. 94-482, Title I, Part D, sec. 129(a), 90 Stat. 2144.)

PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION [1]

APPROPRIATIONS AUTHORIZED

SEC. 461. (a) The Commissioner shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions.

(b)(1) For the purpose of enabling the Commissioner to make contributions to student loan funds established under this part, there are hereby authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1972, and $400,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1979.

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[1] Part E continues the authority formerly contained in Title II of the NDEA.

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(2) In addition there are hereby authorized to be appropriated such sums for the fiscal year ending September 30, 1979, and each of the three succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1979, to continue or complete courses of study.

(c) Any sums appropriated pursuant to subsection (b) for any fiscal year shall be available for apportionment pursuant to section 462 and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Commissioner under section 463. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

(20 U.S.C. 1087aa) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 273; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 130(a) and 130(b), 90 Stat. 2146.

(NOTE: Secs. 137 (c) and (d) of P.L. 92-318 provide as follows:)

(c) In the case of a loan made before July 1, 1972, under Title II of the National Defense Education Act of 1958 not to exceed 50 per centum of such loan (1) shall be canceled for service by the borrower as a full-time teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States at the rate of 10 per centum of the total amount of such loan for each complete academic year of such service, except that (A) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to Title I of the Elementary and Secondary Education Act of 1965, as amended, and which for purposes of this paragraph and for that year has been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which there is a high concentration of students from low-income families, except that (unless all of the schools so determined are schools in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of such title (using a low-income factor of $3,000) exceeds 50 per centum of the total enrollment of the school) the Commissioner shall not make such determination with respect to more than 25 per centum of the total of the public and other nonprofit elementary and secondary schools in any one State for any one year, (B) such rate shall be 15 per centum for each complete academic year of service as a fulltime teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system, and (C) for the purpose of any cancellation pursuant to clause (A) or (B), an additional 50 per centum of any such loan may be cancelled, and (2) shall be cancelled for service by the borrower after June 30, 1970, as a member of the Armed Forces of the United States at the rate of 12½ per centum of the total amount of such loan for each year of consecutive service, but only if such loan was made after April 13, 1970.

(d)(1) Upon enactment of this Act, the program authorized by part E of title IV of the Higher Education Act of 1965, as added by subsection (b) is, and shall be deemed to be, a continuation of the program authorized by title II of the National Defense Education Act of 1958. In accordance with regulations of the Commissioner, except as provided in subsection (c) all rights, privileges, duties, functions, and obligations under such title II prior to the enactment of this Act shall be deemed to be vested, as the Commissioner determines to be appropriate under such part E. Any student loan fund established under an agreement under such title II shall, in accordance with regulations, be deemed to have been established under such part E, and any assets of such student loan fund of any institution shall be deemed to be the assets of a student loan fund established under an agreement of that institution with the Commissioner under such part E.

APPORTIONMENT OF APPROPRIATIONS

SEC. 462. (a)(1) From 90 per centum of the sums appropriated pursuant to section 461(b)(1) for any fiscal year, the Commissioner shall apportion to each State an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in institutions of higher education, as determined by the Commissioner for the most recent year for which satisfactory data are available to him, in such State, bears to the total number of persons so enrolled in all the States. The remainder of the sums so appropriated shall be apportioned among the States by the Commissioner in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sums so appropriated among the States which will most effectively carry out the purpose of this part, except that where any State's apportionment under the first sentence for a fiscal year is less than its allotment under section 202(a) of the National Defense Education Act of 1958 for the fiscal year ending June 30, 1972, before he makes any other apportionments under this sentence, the Commissioner shall apportion sufficient additional sums to such State under this sentence to make the State's apportionment for that year under this paragraph equal to its allotment for the fiscal year ending June 30, 1972, under such section 202(a). Sums apportioned to a State under the preceding sentence shall be consolidated with, and become a part of, its apportionment from the same appropriation under the first sentence of this paragraph.

(2) Any sums appropriated pursuant to section 461(b)(2) for any fiscal year shall be apportioned among institutions of higher education in such a manner as the Commissioner determines will best accomplish the purpose for which they were appropriated.

(b)(1) Any institution of higher education desiring to receive payments of Federal capital contributions from the apportionment of the State in which it is located for any fiscal year shall make an agreement under section 463 and shall submit an application therefor to the Commissioner, in accordance with the provisions of this part. The Commissioner shall, from time to time, set dates before which such institutions must file applications under this section.

(2) The Commissioner shall pay to each applicant under this subsection which has an agreement with him under section 463, from the amount apportioned to the State in which it is located, the amount requested in such application. Such payment may be made in such installments as the Commissioner determines will not result in unneccessary accumulations of capital in the student loan fund of the applicant established under its agreements under section 463.

(c)(1)(A) If the total amount of Federal capital contributions requested in the applications from a State for any fiscal year exceeds the amount apportioned to that State, the request from each institution shall be reduced ratably.

(B) In case additional amounts become available for payments to student loan funds in a State in which requests have been ratably reduced under subparagraph (A), such requests shall be increased on the same basis as they were reduced, except that no request shall be increased above the request submitted under subsection (b)(1).

(2) If the amount of an apportionment to a State for any fiscal year exceeds the total amount of Federal capital contributions requested in applications from that State, such excess shall be available for reapportionment from time to time on such date or dates as the Commissioner shall fix. From the aggregate of such excess for any fiscal year, the Commissioner shall reapportion to each State in which requests were reduced under subparagraph (A) of paragraph (1) an amount which bears the same ratio to such aggregate as the total amount of such reduction in that State bears to the total amount of such reductions in all the States.

(d) The aggregate of the amounts of Federal capital contributions paid under this section for any fiscal year to proprietary institutions of higher education may not exceed the amount by which the sums appropriated pursuant to section 461(b)(1) for that fiscal year exceed $190,000,000.

(20 U.S.C. 1087bb) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 273, 274.

AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

SEC. 463. (a) An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

(2) provide for the deposit in such fund of—

(A) the Federal capital contributions,

(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of such Federal contributions,

(C) collections of principal and interest on student loans made from such fund,

(D) charges collected pursuant to regulations under section 464(c)(1)(G), and

(E) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part,

(B) administrative expenses, as provided in subsection (b),

(C) capital distributions, as provided in section 466, and

(D) costs of litigation, and other collection costs agreed to by the Commissioner in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(G);

(4) provide that where a note or written agreement evidencing a note has been in default for (A) one hundred and twenty days, in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Commissioner in a report describing the total number of loans from such fund which are in

such default, and made to the Commissioner at least semiannually;

(5) provide that where a note or written agreement evidencing a loan has been in default for at least 2 years despite due diligence on the part of the institution in making collection thereon, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such a loan shall be deposited in the general fund of the Treasury; and

(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Commissioner and the institution.

(b) An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 493.

(20 U.S.C. 1087cc) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 274, 275; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 130(c), 90 Stat. 2146, 2147.

TERMS OF LOANS

SEC. 464. (a)(1) Loans from any student loan fund established pursuant to an agreement under section 463, to any student by any institution shall, subject to such conditions, limitations, and requirements as the Commissioner shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(A) $10,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner, and including any loans from such funds made to such person before he became a graduate or professional student);

(B) $5,000 in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Commissioner, and including any loans from such funds made to such person before he became such a student); and

(C) $2,500 in the case of any other student.

(3) Regulations of the Commissioner under paragraph (1) shall be designed to prevent the impairment of the capital of student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(b) A loan from a student loan fund assisted under this part may be made only to a student who—

(1) is in need of the amount of the loan to pursue a course of study at such institution;

(2) is capable, in the opinion of the institution, of maintaining good standing in such course of study;

(3) has been accepted for enrollment as an undergraduate, graduate, or professional student in such institution, or, in the case of a student already in attendance at such institution, is in good standing; and

(4) is carrying at least one-half the normal academic workload, as determined by the institution.

In any case in which a student has been determined to be eligible for a loan under the preceding sentence, and such student thereafter fails to maintain good standing, the eligibility of such student shall be suspended, and further payments to, or on behalf of, such student shall not be made until such student regains good standing.

(c)(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Commissioner) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Commissioner, at least one-half the normal fulltime academic workload, and ending ten years and nine months after such date except that such period may begin earlier than nine months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C) may provide, at the option of the institution in accordance with regulations of the Commissioner, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to him from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the ten-year maximum repayment period provided for in clause (A) of this paragraph;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum, except that no interest shall accrue (i) prior to the beginning date of repayment determined under clause (A)(i) or (ii) during any period in which repayment is suspended by reason of paragraph (2);

(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

(F)[1] shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Commissioner;

(G)[1] shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is appproved by the Commissioner for such purpose), to such institution; and

(H)[1] may, pursuant to regulations of the Commissioner, provide for an assessment of a charge with respect to the loan for failure of the borrower (i) to pay all or part of an installment when it is due or (ii) to file timely and satisfactory evidence of an entitlement of the borrower to a deferment of repayment benefit or a cancellation benefit under this part.

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Commissioner;

(ii) is a member of the Armed Forces of the United States;

(iii) is in service as a volunteer under the Peace Corps Act; or

(iv) is in service as a volunteer under the Domestic Volunteer Act of 1973.

The period during which repayment may be deferred by reason of clause (ii), (iii) or (iv) shall not exceed three years.

(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the ten-year maximum period provided for in clause (A) of paragraph (1).

(3) The Commissioner is authorized, when good cause is shown, to extend, in accordance with regulations, the ten-year maximum repayment period provided for in clause (A) of paragraph (1) with respect to individual loans.

(4) the amount of any charge under clause (G) of paragraph (1) shall not exceed—

(A) in the case of a loan which is repayable in monthly installments, $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter; and

(B) in the case of a loan which has a bimonthly or quarterly repayment interval, $3 and $6 respectively, for each such interval or part thereof by which such installment or evidence is late.

The institution may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the institution not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

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[1] Section 130(g)(2) of Part D of Title I of P.L. 94-482 provides that the amendments made by Section 130(g)(1) take effect on June 23, 1972.

(d) An agreement under this part of payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(e) In determining, for purposes of clause (1) of subsection (b) of this section, whether a student who is a veteran (as that term is defined in section 101(2) of title 38, United States Code) is in need, an institution shall not take into account the income and assets of his parents.

(20 U.S.C. 1087dd) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 275, 277; amended October 12, 1976, P.L. 94-482, Title I, Part D, Sec. 130(d), 130(e), 130(f), 130(g)(1) and (g)(2), 90 Stat. 2147; amended June 15, 1977, P.L. 95-43, sec. 1(a)(39), 91 Stat. 217.

CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

SEC. 465. (a)(1) The per centum specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, and which for the purposes of this paragraph and for that year has been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965 exceeds 30 per centum of the total enrollment of that school and such determination shall not be made with respect to more than 50 per centum of the total number of schools in the State receiving assistance under such title I;

(B) as a full-time staff member in a preschool program carried on under section 222(a)(1) of the Economic Opportunity Act of 1964 which is operated for a period which is comparable to a full school year in the locality: *Provided*, That the salary of such staff member is not more than the salary of a comparable employee of the local educational agency, or

(C) as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system; or

(D) as a member of the Armed Forces of the United States, for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities.

For purposes of this paragraph, the term "handicapped children" means children who are mentally retarded, hard of hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, or other health-impaired children who by reason thereof require special education.

(3)(A) The per centum of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in clause (A), or (C), of paragraph (2), at the rate of 15 per centum for the first or second year of such service, 20 per centum for the third or fourth year of such service, and 30 per centum for the fifth year of such service;

(ii) in the case of service described in clause (B) of paragraph (2) at the rate of 15 per centum for each year of such service;

(iii) in the case of service described in clause (D) of paragraph (2) not to exceed a total of 50 per centum of such loan at the rate of 12½ per centum for each year of qualifying service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

(4) For the purposes of this subsection, the term "year" where applied to service as a teacher means academic year as defined by the Commissioner.

(b) The Commissioner shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection.

(20 U.S.C. 1087ee) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 277, 278; amended Nov. 1, 1978, P.L. 95-561, sec. 1323, 92 Stat. 2363.

DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

SEC. 466. (a) After September 30, 1984, and not later than March 31, 1985, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Commissioner shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1984, as the total amount of the Federal capital contributions to such fund by the Commissioner under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) After March 31, 1985, each institution with which the Commissioner has made an agreement under this part, shall pay to the Commissioner the same proportionate share of amounts received by this institution after September 30, 1978, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Commissioner under subsection (a).

(c) Upon a finding by the institution or the Commissioner prior to October 1, 1984 that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Commissioner, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Commissioner or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(1) The Commissioner shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Commissioner to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the captial contributions to the fund made by the institution.

(2) The remainder of the capital distribution shall be paid to the institution.

(20 U.S.C. 1087ff) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 278, 279; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 130(h), 90 Stat. 2147.

PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

Subpart 1—General Provisions

DEFINITIONS

SEC. 491. (a) For purposes of this title, the term "State" has the meaning set forth in section 1201(b).

(b)(1) For the purposes of this title, except subpart 5 of Part A, except part B, the term "institution of higher educations" includes any school of nursing; and any proprietary institution of higher education which has an agreement with the Commissioner containing such terms and conditions as the Commissioner determines to be necessary to insure that the availability of assistance to students at the school under this title has not resulted, and will not result, in an increase in the tuition, fees, or other charges to such students.

(2) For the purposes of this subsection:

(A) The term "school of nursing" means a public or other nonprofit collegiate or associate degree school of nursing.

(B) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

(C) The term "associate degree school of nursing" means a department, division, or other adminsitrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(D) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner.

(3) For the purposes of this subsection, the term "proprietary institution of higher education" means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1) and (2) of section 1201(a), (C) which does not meet the requirement of section clause (4) of section 1201(a), (D) which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose, and (E) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular student's persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(c) For the purposes of this title—

(1) the term "academic year" shall be defined by the Commissioner by regulations; and

(2) the term "in attendance", when applied to a student, means a student who attends an institution of higher education at least on a half-time basis, as defined by the Commissioner by regulation.

(20 U.S.C. 1088) Enacted Oct. 16, 1968, P.L. 90-575, Title I, sec. 151, 82 Stat. 1032, subsection (b) amended June 23, 1972, P.L. 92-318; sec. 131(c), 86 Stat. 259, 260; redesignated June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 272; amended June 23, 1972, P.L. 92-318, sec. 1001(c)(3), 86 Stat. 381; amended Nov. 15, 1977, P.L. 95-180, 91 Stat. 1372; amended November 1, 1978, P.L. 95-566, 92 Stat. 2403.

ELIGIBILITY OF RESIDENTS OF TRUST TERRITORY OF PACIFIC ISLANDS

Sec. 492. Permanent residents of the Trust Territory of the Pacific Islands shall be eligible for assistance under title II of the National Defense Education Act of 1958 and under this title to the same extent that citizens of the United States are eligible for such assistance.

(20 U.S.C. 1088a) Enacted Oct. 16, 1968, P.L. 90-575, Title I, sec. 151, 82 Stat. 1032; redesignated June 23, 1972, P.L. 92-318, sec. 137(b), 80 Stat. 272.

EXPENSES OF ADMINISTRATION

Sec. 493. (a) An institution which has entered into an agreement with the Commissioner under subpart 2 of part A, part C, or part E of this title shall be entitled for each fiscal year for which it receives an allotment under any such part to a payment for the purposes set forth in subsection (c). The payment for a fiscal year (1) shall be payable from each such allotment in accordance with regulations of the Commissioner, and (2) shall (except as provided in subsection (b)) be an amount equal to 4 per centum of (A) the institution's expenditures during the fiscal year from its allotment under part A plus (B) its expenditures during such fiscal year under part C for compensation of students, plus (C) the principal amount of loans made during such fiscal year from its student loan fund established under part E.

(b) The aggregate amount paid to an institution for a fiscal year under this section may not exceed $325,000.

(c) Payment received by an institution under this section shall be used first to carry out the provisions of section 493A of this Act and then for such additional administrative costs as the institution of higher education determines necessary.

(20 U.S.C. 1088b) Enacted Oct. 16, 1968, P.L. 90-575, Title I, sec. 152, 82 Stat. 1033; redesignated June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 372; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 131(a), 90 Stat. 2147, 2148; amended June 15, 1977, P.L. 95-43, sec. 1(a)(40) (A)(i), (A)(ii), (A)(iii), (40)(B), (40)(C), 91 Stat. 217.

INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

Sec. 493A. (a)(1) Effective July 1, 1977, each institution of higher education and each eligible institution which receives payments under sections 411(d), 428(e) or 493 of this title, as the case may be, shall carry out information dissemination activities to prospective students and to enrolled students who request information regarding financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students and to any prospective student upon request. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution,

(B) the method by which such assistance is distributed among student recipients who enroll at such institution,

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such applications and the review standards employed to make awards for student financial assistance,

(D) the rights and responsibilities of students receiving financial assistance under this title,

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical community costs, and[1] (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest,

(F) the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this subsection,

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, (iii) the faculty and other instructional personnel, and (iv) data regarding student retention at the institution and, when available, the number and percentage of students completing the programs in which the student is enrolled or expresses interest, and

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[1] Apparent error. In Senate Report 94-882 at page 242, Section 493A(a)(1)(E)(iii) reads: "(iii) estimates of typical student room and board costs or typical commuting costs, and . . ."

(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection.

(2) For purposes of this section, the term "prospective student" means any individual who has contacted an institution of higher education or an eligible institution requesting information for the purpose of enrolling in that institution.

(b) Effective July 1, 1977, each institution of higher education or eligible institution, as the case may be, which receives payments authorized, under section 411(d), 428(e), or section 493 of this title shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in the preceding subsection. The Commissioner may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution of higher education or eligible institution, as the case may be, in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

(c) Within 120 days after the date of enactment of the Education Amendments of 1976, the Commissioner shall begin to make available to institutions of higher education and eligible institutions descriptions of Federal student assistance programs including the rights and responsibilites of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs.

(20 U.S.C. 1088b-1) Enacted Oct. 12, 1976, P.L. 94-482, Title I, Part D, sec. 131(b), 90 Stat. 2148, 2149.

STUDENT AID INFORMATION SERVICES

SEC. 493B. In order to assist in the expansion and improvement of campus student aid information services, the Commissioner shall—

(1) survey institutional practices of providing students with complete and accurate information about student financial aid, including the employment of part-time financial aid counselors under work-study programs, hiring other part-time persons from the community, using campus or community volunteers, and communicating through use of publications or technology; collect institutional evaluations of such practices; and disseminate the information described in this clause;

(2) convene meetings of financial aid administrators, students, and other appropriate representatives to explore means of expanding campus financial aid information services and improving the training of part-time individuals involved in such services;

(3) whenever possible, include student peer counselors and other part-time financial aid personnel in training programs sponsored by the Office of Education; and

(4) make recommendations to Congress not later than October 1, 1977, concerning his findings and legislative proposals for improving the use and quality of services of part-time campus financial aid personnel.

(20 U.S.C. 1088b-2) Enacted Oct. 12, 1976, P.L. 94-482, Title I, Part D, sec. 131(b), 90 Stat 2149.

STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

SEC. 493C. (a) It is the purpose of this section to make incentive grants available to the States to be administered, in consultation with statewide financial aid administrator organizations, for the purpose of designing and developing programs to increase the proficiency of institutional and State financial aid administrators in all aspects of student financial aid.

(b) There are hereby authorized to be appropriated $280,000 for each year ending prior to October 1, 1978, for equal division among the States.

(c) To receive a grant under this section State must provide appropriate assurance to the Commissioner that the grant will be matched from State funds by an amount at least equal to the amount of the grant.

(d) From the funds otherwise allotted to the States for subpart 2 of part A, and for part C and part E of this title for States which have obtained a grant under this section, the Commissioner shall transfer to such State an amount equal to .05 per centum of such funds or $10,000, whichever is less, and shall reduce such State allotment by that amount.

(e) A State which desires to obtain a grant under this section for any fiscal year shall submit an application therefor through or by the State agency administering its program of student grants, or if such agency does not exist, through or by any agency or organization designated for such purpose by the State, at such time or times, and containing such information as may be required by such regulations as the Commissioner may prescribe for the purpose of enabling the Commissioner to disburse the funds.

(20 U.S.C. 1088b-3) enacted October 12, 1976, P.L. 94-482, Title I, Part D, sec. 131(b), 90 Stat. 2149, 2150.

MAINTENANCE OF EFFORT

SEC. 494. An agreement between the Commissioner and an institution under part A or part C shall provide assurance that the institution will continue to spend in its own scholarship and student-aid program, from sources other than funds received under such parts, not less than the average expenditures per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the agreement, except that under special and unusual circumstances, pursuant to regulations, the Commission is authorized to waive the application of any provision of such an agreement which is required by this section.

(20 U.S.C. 1088c) Enacted Oct. 16, 1968, P.L. 90-575, Title I, sec. 152, 82 Stat. 1033; redesignated June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 272.

FURNISHING GUIDELINES

SEC. 495. Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date.

(20 U.S.C. 1088d) Enacted June 23, 1972, P.L. 92-318, sec. 139, 86 Stat. 280.

TRANSFERS BETWEEN PROGRAMS

SEC. 496. Up to 10 per centum of the allotment of an institution of higher education for a fiscal year under section 413D or 442 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Commissioner shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

(20 U.S.C. 1088e) Enacted June 23, 1972, P.L. 92-318, sec. 139A, 86 Stat. 281.

ELIGIBILITY FOR STUDENT ASSISTANCE

SEC. 497. (a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after June 30, 1972, and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs authorized under this title. If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any program authorized by this title.

(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after June 30, 1972, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payments to, or for the direct benefit of, such individual under any program authorized by this title.

(c)(1) Nothing in this section shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under this title to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority practice and law.

(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions shall entitle the student receiving it to payments only if—

(e)[1] Any student assistance received by a student under this title—

(1) that student is maintaining satisfactory progress in the course of study he is pursuing, according to the standards and practices of the institution at which the student is in attendance, and

(2) that student does not owe a refund on grants previously received at such institution under this title, or is not in default on any loan from a student loan fund at such institution provided for in part E, or a loan made, insured, or guaranteed by the Commissioner under this title for attendance at such institution.

(d) Any determinations of need made for the purposes of part C or part E of this title shall include considerations of the factor described in section 413C(a)(2)(v). Nothing in this subsection shall be deemed to prohibit the taking into account for the purposes of such parts of other factors used for the determination of need under other parts of this title.

(20 U.S.C. 1088f) Enacted June 23, 1972, P.L. 92-318, sec. 139B, 86 Stat. 281; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 132, 90 Stat. 2150; amended November 1, 1978, P.L. 95-566, sec. 7, 92 Stat. 2404.

FISCAL ELIGIBILITY OF INSTITUTIONS

SEC. 497A. (a) Notwithstanding any other provisions of this title, the Commissioner is authorized to prescribe such regulations as may be necessary to provide for—

(1) a fiscal audit of an eligible institution with regard to any funds obtained by it under this title or obtained from a student who has a loan insured or guaranteed by the Commissioner under this title;

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[1] Apparent error in slip law.

(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

(3) the establishment by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than sixty days after such termination or failure to re-enroll; and

(4) the limitation, suspension or termination of the eligibility for any program under this title of any otherwise eligible institution, whenever the Commissioner has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Commissioner agree to an extension or unless limitation or termination proceedings are initiated by the Commissioner within that period of time.

(b) The Commissioner shall, for the purpose of carrying out the provisions of this section with respect to subpart 1 of part A of this title, enter into special arrangements with institutions of higher education at which students receiving basic grants under that subpart are enrolled. The Commissioner shall include special provisions designed to carry out the provisions of this section in agreements with institutions of higher education under section 413C, in agreements with eligible institutions under section 443, and in agreements with institutions of higher education under section 463.

(c) Upon determination that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Commissioner may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in subsection (a)(4), until he finds that such practices have been corrected.

(d) The Commissioner shall publish a list of State agencies which he determines to be reliable authority as to the quality of public post-secondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(e) For the purpose of this section the term "eligible institution" means any such institution described in section 435(a) of this Act.

(20 U.S.C. 1088f-1) Enacted October 12, 1976, P.L. 94-482, Title I, Part D, Sec. 133(a), 90 Stat. 2150, 2151; amended June 15, 1977, P.L. 95-43, sec. 1(a)(41), 91 Stat. 217; amended November 1, 1978, P.L. 95-561, sec. 1231(b), 92 Stat. 2346.

AFFIDAVIT OF EDUCATIONAL PURPOSE REQUIRED

SEC. 498. (a) Notwithstanding any other provision of law, no grant, loan, or loan guarantee authorized under this title may be made unless the student to whom the grant, loan, or loan guarantee is made has filed with the institution of higher education which he intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), an affidavit stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution.

(b) Nothing in this section shall be construed to invalidate any loan guarantee made under this title.

(20 U.S.C. 1088g) Enacted June 23, 1972, P.L. 92-318, sec. 139C, 86 Stat. 282.

SUBPART 2—ADVISORY COUNCIL ON FINANCIAL AID TO STUDENTS

ESTABLISHMENT OF COUNCIL

SEC. 499. (a) There is established in the Office of Education an Advisory Council on Financial Aid to Students (hereafter in this section referred to as the "Council"), consisting of the Commissioner, who shall be Chairman, and of members appointed by the Commissioner without regard to the civil service or classification laws. Such appointed members shall include (1) leading authorities in the field of education, (2) persons representing State and private nonprofit loan insurance programs, financial and credit institutions, and institutions of higher education and other eligible institutions as those terms may be variously defined in this Act or in the National Defense Education Act of 1958, and (3) at least one undergraduate student in an institution of higher education or other eligible institution.

(b) The Council shall advise the Commissioner on matters of general policy arising in the administration by the Commissioner of programs relating to financial assistance to students and on evaluation of the effectiveness of these programs.

(20 U.S.C. 1089) Enacted Oct. 16, 1968, P.L. 90-575, Title I, sec. 151, 82 Stat. 1032; subsections (c) and (d) repealed April 13, 1970, P.L. 91-230, sec. 401(h) and superseded by pt. C of title IV of P.L. 90-247, as amended; redesignated June 23, 1972, P.L. 92-318, sec. 137(b) 86 Stat. 272.

TITLE V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS

PART A—GENERAL PROVISIONS[1]

Repealed

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[1] New Part A created by Sec. 153(a) of Part E of Title I of P.L. 94-482.

PART A—TEACHER CORPS PROGRAM[2]

STATEMENT OF PURPOSE AND AUTHORIZATION OF APPROPRIATIONS

SEC. 511. (a) The purpose of this part is to strengthen the educational opportunities available to children in areas having concentrations of low-income families and to encourage colleges and universities to broaden their programs of teacher preparation and to encourage institutions of higher education and local educational agencies to improve programs of training and retraining for teachers and teacher aides, and other educational personnel—

(1) attracting and training qualified teachers who will be made available to local educational agencies for teaching in such areas;

(2) attracting and training inexperienced teacher-interns who will be made available for teaching and inservice training to local educational agencies in such areas in teams led by an experienced teacher;

(3) attracting volunteers to serve as part-time tutors or full-time instructional assistants in programs carried out by local educational agencies and institutions of higher education serving such areas;

(4) attracting and training educational personnel to provide relevant remedial, basic, and secondary educational training, including literacy and communications skills, for juvenile delinquents, youth offenders, and adult criminal offenders;

(5) supporting demonstration projects for retraining experienced teachers and teacher aides, and other educational personnel serving in local educational agencies.

(b) For the purpose of carrying out the provisions of this part there are authorized to be appropriated $50,000,000 for the fiscal year 1977, $75,000,000 for the fiscal year 1978, and $100,000,000 for the fiscal year 1979.

(20 U.S.C. 1101) Enacted Nov. 8, 1965, P.L. 89-329, Title V, sec. 511, 79 Stat. 1255; amended June 29, 1967, P.L. 90-35, sec. 3(b), 81 Stat. 85; amended Oct. 16, 1968, P.L. 90-575, Title II, sec. 231, 82 Stat. 1039; amended April 13, 1970, P.L. 91-230, sec. 804(b)(1)(2), 84 Stat. 190; and further amended April 13, 1970, P.L. 91-230, sec. 805(a), 84 Stat. 191; sec. 511(b) repealed June 23, 1972; P.L. 92-318, sec. 141(c)(1)(C), 86 Stat. 285; amended August 21, 1974, P.L. 93-380, sec. 835(a)(1), 88 Stat. 605; amended October 12, 1976, P.L. 94-482, Title I, Part E, sec. 151(a)(5)(A), sec. 152(a), 90 Stat. 2152.

ESTABLISHMENT OF TEACHER CORPS

SEC. 512. In order to carry out the purposes of this part, there is hereby established in the Office of Education a Teacher Corps. The Teacher Corps shall be headed by a Director who shall be compensated at the rate prescribed for grade 17 of the General Schedule of the Classification Act of 1949, and a Deputy Director who shall be compensated at the rate prescribed for grade 16 of such General Schedule. The Director and the Deputy Director shall perform such duties as are delegated to them by the Commissioner; except that (1) the Commissioner may delegate his functions under this part only to the Director, and (2) the Director and Deputy Director shall not be given any function authorized by law other than that granted by this part.

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[2] Part A—General Provisions is repealed, effective September 30, 1976, by sections 151 (a)(2) and 151(b) of Part E of Title I of P.L. 94-482 (Enacted October 12, 1976, 90 Stat. 2151).

(20 U.S.C. 1102) Enacted Nov. 8, 1965, P.L. 89-329, Title V, sec. 512, 79 Stat. 1255; amended June 29, 1967, P.L. 90-35, sec. 3(a), (3), (4), 81 Stat. 85; amended June 23, 1972, P.L. 92-318, sec. 142, 86 Stat. 286; amended October 12, 1976, P.L. 94-482, Title I, Part E, sec. 151(a)(5)(B), 90 Stat. 2152.

TEACHER CORPS PROGRAM

SEC. 513. (a) For the purpose of carrying out this part, the Commissioner is authorized to—

(1) enter into contracts or other arrangements with institutions of higher education or local educational agencies under which they will recruit, select, and enroll in the Teacher Corps for periods of up to five years, experienced teachers, teacher aides, and other educational personnel, persons who have a bachelor's degree or its equivalent, and persons who have successfully completed two years of a program for which credit is given toward a baccalaureate degree and, for such periods as the Commission may prescribe by regulation, persons who volunteer to serve as part-time or full-time instructional assistants;

(2) enter into arrangements, through grants or contracts, with institutions of higher education or local educational agencies (upon approval in either case by the appropriate State educational agency) or with State educational agencies to provide members of the Teacher Corps with such training as the Commissioner may deem appropriate to carry out the purpose of this part, including not more than three months of training for members before they undertake their teaching duties under this part;

(3) enter into arrangements (including the payment of the cost of such arrangements) with local educational agencies upon approval by the appropriate State educational agency and, after consultation in appropriate cases with institutions of higher education, to furnish to local educational agencies, for service during regular or summer sessions, or both, in the schools of such agencies in areas having concentrations of children from low-income families, Teacher Corps programs each of which shall include teacher-intern teams led by experienced teachers, and may include additional experienced teachers, teacher aides, and other educational personnel, who may be afforded time by the local educational agency for a training program carried out in cooperation with an institution of higher education;

(4) pay to local educational agencies such part of the amount of the compensation which such agencies pay to or on behalf of members of the Teachers Corps assigned to them pursuant to arrangements made pursuant to the preceding clause as may be agreed upon after consideration of their ability to pay such compensation, but not in excess of 90 per centum thereof, except that, in exceptional cases, the Commissioner may provide more than 90 per centum of such compensation during the first year of any agency's participation in the program;

(5) enter into contracts or other arrangements with local educational agencies or institutions of higher education, upon approval by the appropriate State educational agency, under which provisions (including payment of the cost of such arrangements) will be made (A) to carry out programs serving disadvantaged areas in which volunteers (including high school and college students) serve as part-time tutors or full-time instructional assistants in teams with other Teacher Corps members, under the guidance of experienced teachers, but not in excess of 90 per centum of the cost of compensation for such tutors and instructional assistants may be paid from Federal funds, and (B) to provide appropriate training to prepare tutors and instructional assistants for service in such programs;

(6) enter into arrangements, through grants or contracts, with State and local educational agencies, and with institutions of higher education, and such other agencies or institutions approved by the Commissioner according to criteria which shall be established by him to carry out the purposes of this paragraph, under which provisions (including payments of the cost of such arrangements) will be made to furnish to such agencies members of the Teacher Corps to carry out projects designed to meet the special educational needs of juvenile delinquents, youth offenders, and adult criminal offenders, and persons who have been determined by a State or local educational agency, court of law, law enforcement agency, or any other State or local public agency to be predelinquent juveniles, but not in excess of 90 per centum of the cost of compensation for Teacher Corps members serving in such projects may be paid from Federal funds;

(7)(A) make available technical assistance to State and local educational agencies and institutions of higher education for carrying out arrangements entered into under this title; and

(B) provide planning, technical assistance, monitoring, documenting, disseminating, and evaluation services for arrangements made under this title;

(8) acquaint qualified persons of teaching opportunities and needs in disadvantaged areas and encourage qualified persons to apply to appropriate educational agencies or institutions for enrollment in the Teacher Corps; and

(9) accept and employ in the furtherance of the purposes of this part (A) voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes, as amended (31 U.S.C. 665(b)), and (B) any money or property (real, personal, or mixed, tangible or intangible) received by gift, device, bequest, or otherwise.

(b) Arrangements with institutions of higher education to provide training for Teacher Corps members while serving in schools for local educational agencies under the provisions of this part shall provide, wherever possible, for training leading to an appropriate degree.

(c)(1) Whenever the Commissioner determines that the demand for the services of members of the Teacher Corps exceeds the number available, he shall, to the extent practicable, allocate the number of members of the Teacher Corps who are available among the States in accordance with paragraph (2).

(2) Not to exceed 5 per centum of the number of members of the Teacher Corps who are available shall be allocated to Puerto Rico, the Virgin Islands, Guam, American Samoa and the Trust Territory of the Pacific Islands and not to exceed 5 per centum of such members shall be allocated to the elementary and secondary schools operated for Indian children by the Department of Interior, according to their respective needs. The remainder of such number of Teacher Corps members shall be allocated among the States so that the number of members available to any State shall bear the same ratio to the number being allocated as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States. The number of children so enrolled shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this subsection, the term "State" shall not include Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(3) If the Commissioner determines that a State will not require the number of Teacher Corps members allocated to it under paragraph (2), he shall, from time to time, reallot the number not required, on such dates as he may fix, to other States in proportion to the original allocation to such States under paragraph (2), but with such proportionate number for any of such other States being reduced to the extent it exceeds the number the Commissioner determines such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallocated among the States whose proportionate numbers were not so reduced.

(d) A local educational agency may utilize members of the Teacher Corps assigned to it in providing, in the manner described in section 205(a)(2) of Public Law 874, Eighty-first Congress, as amended, educational services in which children enrolled in private elementary and secondary schools can participate.

(e)(1) No arrangement may be entered into under the provisions of paragraph (1), (2), (3), (5), or (6) of subsection (a) of this section unless that arrangement is prepared with the participation of an elected council which shall be representative of the community in which the project subject to that arrangement is located and of the parents of the students of the elementary or secondary schools, or both, to be served by any such project.

(2) Each council selected pursuant to this subsection shall participate with the local educational agency or institution of higher education, or both, in the planning, carrying out, and evaluation of projects subject to arrangements under paragraphs (1), (2), (3), (5), and (6) of subsection (a) of this section.

(3) The Commissioner is authorized in each fiscal year to arrange for the payment of necessary secretarial and administration expenses of each council elected pursuant to the provisions of this subsection for the purposes of carrying out its functions under this subsection.

(f) The Commissioner shall establish procedures seeking, with respect to the Teacher Corps members enrolled after the date of enactment of the Education Amendments of 1976, goal [sic] of having approximately five individuals who are at the time of enrollment, or who previously have been, employed as teachers by local educational agencies to one individual who has not been so employed. The Commissioner may waive the procedure established under this subsection if he makes a determination that there are insufficient qualified applicants to maintain the goal sought by this subsection, or that there are insufficient employment opportunities for individuals who are not so employed, and submits a report to the Congress of such a determination.

(g) Notwithstanding any other provision of law, the Commissioner shall develop and establish specific criteria for entering into arrangements under this part in order to assist applicants for assistance under this part to develop proposals to be submitted. Criteria established under this subsection shall be used by the Commissioner in selecting proposals under this title.

(20 U.S.C. 1103) Enacted Nov. 8, 1965, P.L. 89-329, Title V, sec. 513, 79 Stat. 1256; amended June 29, 1967, P.L. 90-35, sec. 9(a), (c), (f), 81 Stat. 85, 86; sec. 513 (c)(2) amended Apr. 13, 1970, P.L. 91-230, sec. 803, 84 Stat. 190; sec. 513(a) amended Apr. 13, 1970, P.L. 91-230, sec. 804(c), 84 Stat. 190; and further amended Apr. 13, 1970, P.L. 91-230, sec. 805(b), 84 Stat. 191; amended August 21, 1974, P.L. 93-380, sec. 835(a)(2), 88 Stat. 605; amended October 12, 1976, P.L. 94-482, Title I, Part E, sec. 152(b), (c), (d), 90 Stat. 2152, 2153.

COMPENSATION

SEC. 514. (a) An arrangement made with a local educational agency pursuant to paragraph (3) of section 513(a), or arrangement with a local educational agency or institution of higher education pursuant to paragraph (5) of section 513(a), or an arrangement with any agency pursuant to paragraph (6) of section 513(a), shall provide for compensation by such agency of Teacher Corps members during the period of their assignment to it at the following rates:

(1) an experienced teacher who is leading a teaching team shall be compensated at a rate agreed to by such agency and the Commissioner;

(2) a teacher intern shall be compensated at such rates as the Commissioner may determine to be consistent with the nature of the program and with prevailing practices under comparable federally supported programs or local projects, not to exceed $150 per week plus $15 per week for each dependent; and

(3) tutors and instructional assistants shall be compensated at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported work-study programs.

(b) For any period of training under this part the Commissioner shall pay to members of the Teacher Corps such stipends (including allowances for subsistence and other expenses for such members and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported training programs.

(c) The Commissioner shall pay the necessary travel expenses of members of the Teacher Corps and their dependents and necessary expenses for the transportation of the household goods and personal effects of such members and their dependents, and such other necessary expenses of members as are directly related to their services in the Corps, including readjustment allowances proportionate to service.

(d) The Commissioner is authorized to make such arrangements as may be possible, including the payment of any costs incident thereto, to protect the tenure, retirement rights, participation in a medical insurance program, and such other similar employee benefits as the Commissioner deems appropriate, of a member of the Teacher Corps who participates in any program under this subpart and who indicates his intention to return to the local educational agency or institution of higher education by which he was employed immediately prior to his service under this subpart.

(e) The Commissioner is authorized to provide medical (including hospitalization) insurance for members of the Teacher Corps who do not otherwise obtain such insurance coverage either under an arrangement made pursuant to subsection (d) of this section or as an incident of an arrangement between the Commissioner and an institution or a State or local educational agency pursuant to section 513.

(f) The Commissioner is authorized to compensate local educational agencies for released time for educational personnel of the agency who are being trained in Teacher Corps projects assisted under this title.

(20 U.S.C. 1104) Enacted Nov. 8, 1965, P.L. 89-329, Title V, sec. 514, 79 Stat. 1257; amended June 29, 1967, P.L. 90-35, sec. 3(a), (g), 81 Stat. 85, 86; amended Oct. 16, 1968, P.L. 90-575, Title II, sec. 232, 82 Stat. 1039; amended Apr. 13, 1970, P.L. 91-230, sec. 804, 84 Stat. 191, and further amended Apr. 13, 1970, P.L. 91-230, sec. 805, 84 Stat. 192; amended Aug. 21, 1974, P.L. 93-380, sec. 835 (a)(4), 88 Stat. 605, amended October 12, 1976, P.L. 94-482, Title I, Part E, sec. 152(e), 90 Stat. 2153.

APPLICATION OF PROVISIONS OF FEDERAL LAW

Sec. 515. (a) Except as otherwise specifically provided in this section, a member of the Teacher Corps shall be deemed not to be a Federal employee and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(Note.—Subsection (b) was repealed by P.L. 90-83.)

(c) Such members shall be deemed to be employees of the Government for the purposes of the Federal tort claims provisions of title 28, United States Code.

(d) Members of the Teachers Corps shall not be eligible to receive payment of a student loan under title II of the National Defense Education Act of 1958 or of an educational opportunity grant under title IV of this Act.

(20 U.S.C. 1105) Enacted Nov. 8, 1965, P.L. 89-329, Title V, sec. 515, 79 Stat. 1257; amended June 29, 1967, P.L. 90-35, sec. 3(h), 81 Stat. 87; amended Sept. 11, 1967, P.L. 90-83, sec. 10(b), 81 Stat. 223.

LOCAL CONTROL PRESERVED

Sec. 516. Members of the Teacher Corps shall be under the direct supervision of the appropriate officials of the local educational agencies to which they are assigned. Except as otherwise provided in clause (3) of section 513(a), such agencies shall retain the authority to—

(1) assign such members within their systems;

(2) make transfers within their systems;

(3) determine the subject matter to be taught;

(4) determine the terms and continuance of the assignment of such members within their systems.

(20 U.S.C. 1106) Enacted Nov. 8, 1965, P.L. 89-329, Title V, sec. 516, 79 Stat. 1258.

MAINTENANCE OF EFFORT

SEC. 517. No member of the Teacher Corps shall be furnished to any local educational agency under the provisions of this subpart if such agency will use such member to replace any teacher who is or would otherwise be employed by such agency.

(20 U.S.C. 1107) Enacted Nov. 8, 1965, P.L. 89-329, Title V, sec. 517, 79 Stat. 1258.

TEACHING CHILDREN OF MIGRATORY AGRICULTURAL WORKERS

SEC. 517A. For purposes of this part the term "local educational agency" includes any State educational agency or other public or private nonprofit agency which provides a program or project designed to meet the special educational needs of migratory children of migratory agricultural workers, and any reference in this part to (1) teaching in the schools of a local educational agency includes teaching in any such program or project and (2) "migratory children of migratory agricultural workers" shall be deemed to continue to refer to such children for a period, not in excess of five years, during which they reside in the area served by the local educational agency.

(20 U.S.C. 1107a) Enacted June 29, 1967, P.L. 90-35, sec. 3(i), 81 Stat. 87.

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[PART B—ATTRACTING AND QUALIFYING TEACHERS][1]

Subpart 2[2]—Attracting and Qualifying Teachers to Meet Critical Teacher Shortages

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PART B—TEACHER TRAINING PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 531. There are authorized to be appropriated $75,000,000 for the fiscal year 1977 and the fiscal year 1978, and $100,000,000 for the fiscal year 1979, to carry out the provisions of this part. Of the sums so appropriated for any fiscal year not less than 10 per centum shall be available for each of the progams authorized by sections 532 and 533. In the event that sums exceeding $50,000,000 are appropriated in any fiscal year for purposes of carrying out this part, each State shall receive grants sufficient to assure the establishment of one such teacher center in that State in such fiscal year.

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[1] Stricken by Section 151(a)(3)(A) of Part E of Title I of P.L. 94-482.

[2] Repealed effective September 30, 1976, by Sections 151(a)(4)(A) and 151(b) of Part E of Title I of P.L. 94-482.

(20 U.S.C. 1119) Enacted June 29, 1967, P.L. 90-35, sec. 6, 81 Stat. 91; amended June 23, 1972, P.L. 92-318, sec. 147(a)(1) and (2), 86 Stat. 287; further amended by sec. 148 (a), P.L. 92-318, 86 Stat. 287; amended October 12, 1976, P.L. 94-482, Title I, Part E, Sec. 153(a), 90 Stat. 2154; amended November 1, 1978, P.L. 95-561, sec. 1321(a), 92 Stat. 2362, 2363.

TEACHER CENTERS

SEC. 532. (a)(1) The Commissioner is authorized to make grants to local educational agencies in accordance with the provisions of this section to assist such agencies in planning, establishing, and operating teacher centers

(2) For the purpose of this section, the term "teacher center" means any site operated by a local educational agency (or a combination of such agencies) which serve teachers, from public and nonpublic schools of a State, or an area or community within a State, in which teachers, with the assistance of such consultants and experts as may be necessary, may—

(A) develop and produce curricula designed to meet the educational needs of the persons in the community, area, or State being served, including the use of educational research findings or new or improved methods, practices, and techniques in the development of such curricula; and

(B) provide training to improve the skills of teachers to enable such teachers to meet better the special educational needs of persons such teachers serve, and to familiarize such teachers with developments in curriculum development and educational research, including the manner in which the research can be used to improve their teaching skills.

(b) Each teacher center shall be operated under the supervision of a teacher center policy board, the majority of which is representative of elementary and secondary classroom teachers to be served by such center fairly reflecting the make-up of all schoolteachers, including special education and vocational education teachers. Such board shall also include individuals representative of, or designated by, the school board of the local educational agency served by such center, and at least one representative designated by the institutions of higher education (with departments or schools of education) located in the area.

(c)(1) Any local educational agency or any consortium of local educational agencies (including statewide programs) desiring to receive a grant under this section shall make application therefor at such time, in such manner, and containing or accompanied by such information, as the Commissioner may by regulation require. Each application shall be submitted through the State educational agency of the State in which the applicant is located. Each such State agency shall review the application, make comments thereon, and recommend each application the State agency finds should be approved. Only applications so recommended shall be transmitted to the Commissioner for his approval.

(2) Any local educational agency which has submitted an application in accordance with paragraph (1) of this subsection which is

dissatisfied with the action of the appropriation State educational agency may petition the Commissioner to request further consideration by the State educational agency. The Commissioner shall, upon receipt of such petition, request further consideration by the State educational agency.

(3) If, subsequent to the expiration of thirty days after the Commissioner's petitioning the State educational agency, such agency has not transmitted such application, then such application shall be transmitted to the Commissioner along with the comments and evaluation of the State educational agency.

(d) In approving any application under this section, the Commissioner shall insure that there is adequate provision for the furnishing of technical assistance to, and dissemination of information derived from, the proposed teacher center by the appropriate State educational agency. Such State agency shall be adequately compensated by the Commissioner for such review of applications, recommendations, submissions, technical assistance, and dissemination services.

(e) Any local educational agency having an application approved under this section may contract with an institution of higher education to carry out activities under, or provide technical assistance in connection with, such application.

(f) Notwithstanding the provisions of subsection (a)(1) of this section with respect to the requirement that teacher centers be operated by local educational agencies, 10 per centum of the funds expended under this section may be expended directly by the Commissioner to make grants to institutions of higher education to operate teacher centers, subject to the other provisions of this section.

(20 U.S.C. 1119a) Enacted June 23, 1972, P.L. 92-318, sec. 451(b), 86 Stat. 344; amended Oct. 12, 1976, P.L. 94-482, Title I, Part E, sec. 153(a), 90 Stat. 2154, 2155; amended Nov. 1, 1978, P.L. 95-561, sec. 1321(b), 92 Stat. 2363.

TRAINING FOR HIGHER EDUCATION PERSONNEL

SEC. 533. (a) The Commissioner is authorized to make grants to institutions of higher education to assist such institutions in the training of individuals—

(1) preparing to serve as teachers, including guidance and counseling personnel, administrative personnel, or education specialists in institutions of higher education if such individuals are (A) from cultural or educational backgrounds which have hindered such individuals in achieving success in the field of education, or (B) preparing to serve in educational programs designed to meet the special needs of students from such backgrounds; or

(2) serving as teachers, including guidance and counseling personnel, administrative personnel, or education specialists in institutions of higher education, if such individuals are to be trained to meet changing personnel needs, such as in areas determined to be national priority areas pursuant to section 406(d)(1)(D) of the General Education Provisions Act.

(b) Grants made under this section may be used only to assist in paying the cost of courses of training or study, including short term or regular institutes, symposia or other inservice training, for teachers, including guidance and counseling personnel, administrative personnel, or educational specialists in institutions of higher education.

(20 U.S.C. 1119a-1) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 239, 82 Stat. 1040-1041; amended Oct. 12, 1976, P.L. 94-482, Title I, Part E, sec. 153(a), 90 Stat. 2155; amended June 15, 1977, P.L. 95-43, sec. 1(a)(42), 91 Stat. 217.

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PART C[1]—FELLOWSHIPS FOR TEACHERS AND RELATED EDUCATIONAL PERSONNEL

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PART D[2]—IMPROVING TRAINING OPPORTUNITIES FOR PERSONNEL SERVING IN PROGRAMS OF EDUCATION OTHER THAN HIGHER EDUCATION

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PART E[3]—FELLOWSHIPS FOR TEACHERS AND RELATED EDUCATIONAL PERSONNEL

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PART F[4]—TRAINING AND DEVELOPMENT PROGRAMS FOR VOCATIONAL EDUCATIONAL PERSONNEL

STATEMENT OF PURPOSE

SEC. 551. It is the purpose of this part to provide opportunities for experienced vocational educators to spend full-time in advanced study of vocational education for a period not to exceed three years in length; to provide opportunities to update the occupational competencies of vocational education teachers through exchanges of personnel between vocational education programs and commercial, industrial, or other public or private employment related to the subject matter of vocational education; and to provide programs of inservice teacher education and short-term institutes for vocational education personnel.

(20 U.S.C. 1119c) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 201, 82 Stat. 1091.

LEADERSHIP DEVELOPMENT AWARDS

SEC. 552. (a) In order to meet the needs in all the States for qualified vocational education personnel (such as administrators, supervisors, teacher educators, researchers, and instructors in vocational education programs) the Commissioner shall make available leadership development awards in accordance with the provisions of this part only upon his determination that—

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[1] Repealed, effective September 30, 1976, by Sections 151(a)(4)(A) and 151(b) of Part E of Title I of P.L. 94-482.

[2] Repealed, effective September 30, 1976, by Sections 151(a)(4)(A) and 151(b) of Part E of Title I of P.L. 94-482.

[3] Repealed, effective September 30, 1976, by Sections 151(a)(4)(A) and 151(b) of Part E of Title I of P.L. 94-482.

[4] Section 151(a)(4)(C) of Part E of Title I of P.L. 94-482 provides that Part F is repealed effective September 30, 1977.

(A) persons selected for awards have had not less than two years of experience in vocational education or in industrial training, or military technical training; or, in the case of researchers, experience in social science research which is applicable to vocational education; or

(B) persons receiving such awards are currently employed or are reasonably assured of employment in vocational education and have successfully completed, as a minimum, a baccalaureate degree program; or

(C) persons selected are recommended by their employer, or others, as having leadership potential in the field of vocational education and are eligible for admission as a graduate student to a program of higher education approved by the Commissioner under subsection (c).

(b)(1) The Commissioner shall pay to persons selected for leadership development awards such stipends (including such allowances for subsistence and other expenses for such person and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(2) The Commissioner shall, in addition to the stipends paid to persons under paragraph (1), pay to the institution of higher education at which such person is pursuing his course of study such amount as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported programs not to exceed the equivalent of $3,500 per academic year, but any amount charged such person for tuition and nonrefundable fees and deposits shall be deducted from the amount payable to the institution of higher education under this subsection.

(c) The Commissioner shall approve the vocational education leadership development program of an institution of higher education by the institution only upon finding that—

(1) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, guidance and counseling research, and curriculum development;

(2) such program is designed to further substantially the objective of improving vocational education through providing opportunities for graduate training and vocational education teachers, supervisors, and administrators, and of university level vocational education teacher educators and researchers;

(3) such programs are conducted by a school of graduate study in the institution of higher education; and

(4) such program is also approved by the State board for vocational education in the State where the institution is located.

(d) In order to meet the needs for qualified vocational education personnel such as teachers, administrators, supervisors, and teacher educators, in vocational education programs in all the States, the Commissioner in carrying out this section shall apportion leadership development awards equitably among the States, taking into account such factors as the State's vocational education enrollments, and the incidence of youth unemployment and school dropouts in the State.

(e) Persons receiving leadership awards under the provisions of this section shall continue to receive the payments provided in subsection (b) only during such periods as the Commissioner finds that they are maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field of vocational education in an institution of higher education, and are not engaging in gainful employment, other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

(20 U.S.C. 1119c-1) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 201, 82 Stat. 1092, 1093.

EXCHANGE PROGRAMS, INSTITUTES, AND IN-SERVICE EDUCATION FOR VOCATIONAL-EDUCATION TEACHERS, SUPERVISORS, COORDINATORS, AND ADMINISTRATORS

SEC. 553. (a) The Commissioner is authorized to make grants to State boards, as defined in the Vocational Education Act of 1963, to pay the cost of carrying out cooperative arrangements for the training or retraining of experienced vocational education personnel such as teachers, teacher educators, administrators, supervisors, and coordinators, and other personnel, in order to strengthen education programs supported by this part and the administration of schools offering vocational education. Such cooperative arrangements may be between schools offering vocational education and private business or industry, commercial enterprises, or with other educational institutions (including those for the handicapped and delinquent).

(b) Grants under this section may be used for projects and activities such as—

(1) exchange of vocational education teachers and other staff members with skilled technicians or supervisors in industry (including mutual arrangements for preserving employment and retirement status, and other employment benefits during the period of exchange), and the development and operation of cooperative programs involving periods of teaching in schools providing vocational education and of experience in commercial, industrial, or other public or private employment related to the subject matter taught in such school;

(2) in-service training programs for vocational education teachers and other staff members to improve the quality of instruction, supervision, and administration of vocational education programs; and

(3) short-term or regular-session institutes, or other preservice and in-service training programs or projects designed to improve the qualifications of persons entering and reentering the field of vocational education, except that funds may not be used for seminars, symposia, workshops or conferences unless these are part of a continuing program of in-service or preservice training.

(c) A grant may be made under this section only upon application to the Commissioner at such time or times and containing such information as he deems necessary. The Commissioner shall not approve an application unless it—

(1) sets forth a program for carrying out one or more projects or activities which meet the requirements of subsection (b), and provides for such methods of administration as are necessary for the proper and efficient operation of the program;

(2) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes which meet the requirements of subsection (b), and in no case supplant such funds;

(3) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

(4) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(20 U.S.C. 1119c-2) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 201, 82 Stat. 1093, 1094.

FAMILIARIZING TEACHERS WITH NEW CURRICULAR MATERIALS

Sec. 554. In approving training and development programs for vocational education personnel, the Commissioner shall give special consideration to programs which are designed to familiarize teachers with new curricular materials in vocational education.

(20 U.S.C. 1119c-3) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 201, 82 Stat. 1094.

AUTHORIZATION OF APPROPRIATIONS [1] [2]

Sec. 555. There are authorized to be appropriated for the purposes of carrying out this part $25,000,000 for each of the fiscal years ending prior to October 1, 1977.

(20 U.S.C. 1119c-4) Enacted October 12, 1976, P.L. 94-482, Title I, Part E, sec. 151(a)(4)(B), 90 Stat. 2152.

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[1] Section 151(b) of Part E of Title I of P.L. 94-482 provides that this section becomes effective September 30, 1976.

[2] In an apparent error in the slip law, and amendment identical in language appears at section 201(q) of Title II of P.L. 94-482, 90 Stat. 2169.

TITLE VI—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

PART A—EQUIPMENT

STATEMENT OF PURPOSE AND AUTHORIZATION OF APPROPRIATIONS

SEC. 601. (a) The purpose of this part is to improve the quality of classroom instruction in selected subject areas in institutions of higher education.

(b) There are authorized to be appropriated $60,000,000 for each of the fiscal years ending prior to October 1, 1979, to enable the Commissioner to make grants to institutions of higher education and combinations of institutions of higher education pursuant to this part for the acquisition of equipment and for minor remodeling described in section 603(2)(A).

(c) There are authorized to be appropriated $10,000,000 for each of the fiscal years ending prior to October 1, 1979, to enable the Commissioner to make grants to institutions of higher education and combinations of institutions of higher education pursuant to this part for the acquisition of television equipment and for minor remodeling described in section 603(2)(B).

(20 U.S.C. 1121) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 601, 79 Stat. 1261; amended Nov. 3, 1966, P.L. 89-752, sec. 3(b), 80 Stat. 1241; amended Oct. 16, 1968, P.L. 90-575, Title II, sec. 241, 242, 82 Stat. 1041; amended June 23, 1972, P.L. 92-318, sec. 151(a), 86 Stat. 288; amended October 12, 1976, P.L. 94-482, Title I, Part F, sec. 156, 90 Stat. 2155, 2156.

ALLOTMENTS TO STATES

SEC. 602. (a)(1) Of the funds appropriated pursuant to subsections (b) and (c) of section 601 for any fiscal year one-half shall be allotted by the Commissioner among the States so that the allotment to each State will be an amount which bears the same ratio to such one-half as the number of students enrolled in institutions of higher education in such State bears to the total number of students enrolled in such institutions in all the States; and the remaining one-half shall be allotted by him among the States in accordance with paragraph (2) of this subsection. For the purposes of this subsection, (A) the number of students enrolled in institutions of higher education shall be deemed to be equal to the sum of (i) the number of full-time students and (ii) the full-time equivalent of the number of part-time students as determined by the Commissioner in accordance with regulations; and (B) determinations as to enrollment shall be made by the Commissioner on the basis of data for the most recent year for which satisfactory data with respect to such enrollment are available to him.

(2) For the purpose of this paragraph the Commissioner shall allot to each State for each fiscal year an amount which bears the same ratio to the funds being allotted pursuant to this paragraph as the product of—

(A) the number of students enrolled in institutions of higher education in such State, and

(B) the State's allotment ratio.[sic]

bears to the sum of the corresponding products for all the States. For the purposes of this paragraph the allotment ratio for any

State shall be 1.00 less the product of (i) 0.50 and (ii) the quotient obtained by dividing the income per person for the State by the income per person for all the States (not including Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and Guam), except that the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔, and the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and Guam shall be 0.66⅔. The allotment ratios shall be promulgated by the Commissioner as soon as possible after enactment of this Act, and annually thereafter, on the basis of the average of the incomes per person of the States and of all the States for the three most recent consecutive calendar years for which satisfactory data are available from the Department of Commerce.

(b)(1) A State allotment under subsection (a) from funds appropriated pursuant to section 601(b) shall be available in accordance with the provisions of this part for payment of the Federal share (as determined under section 604) of the cost of equipment and minor remodeling described in section 602(2)(A).

(2) A State's allotment under subsection (a) from funds appropriated pursuant to section 601(c) shall be available in accordance with the provisions of this part for payment of the Federal share (as determined under section 604) of the cost of television equipment and minor remodeling described in section 603(2)(B).

(c) Sums allotted to a State for the fiscal year ending June 30, 1966, shall remain available for reservation as provided in section 606 until the close of the next fiscal year, in addition to the sums allotted to such State for such next fiscal year. Sums allotted to a State for the fiscal year ending June 30, 1967, or for any succeeding fiscal year, which are not reserved as provided in section 606 by the close of the fiscal year for which they are allotted, shall be reallotted by the Commissioner, on the basis of such factors as he determines to be equitable and reasonable, among the States which, as determined by the Commissioner, are able to use without delay any amounts so reallotted. Amounts reallotted under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted.

(20 U.S.C. 1122) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 602, 79 Stat. 1261; amended Nov. 15, 1977, P.L. 95-180, 91 Stat. 1372.

STATE COMMISSIONS AND PLANS

SEC. 603. Any State desiring to participate in the program under this part shall designate for that purpose an existing State agency which is broadly representative of the public and of institutions of higher education in the State, or, if no such State agency exists, shall establish such a State agency, and submit to the Commissioner through the agency so designated or established (hereafter in this part referred to as the "State commission"), a State plan for such participation. The Commissioner shall approve any such plan which—

(1) provides that it shall be administered by the State commission;

(2) sets forth, consistently with basic criteria prescribed by regulation pursuant to section 604, objective standards and methods (A) for determining the relative priorities of eligible projects for the acquisition of laboratory and other special equipment (other than supplies consumed in use), including audiovisual materials and equipment for classrooms or audiovisual centers, and printed and published materials (other than textbooks) for classrooms or libraries, suitable for use in providing education in science, mathematics, foreign languages, history, geography, government, English, other humanities, the arts, or education at the undergraduate level in institutions of higher education, and minor remodeling of classroom or other space used for such materials or equipment; (B) for determining relative priorities of eligible projects for (i) the acquisition of television equipment for closed-circuit direct instruction in such fields in such institutions (including equipment for fixed service instructional television, as defined by the Federal Communications Commission, but not including broadcast transmission equipment), (ii) the acquisition of necessary instructional materials for use in such television instruction, and (iii) minor remodeling necessary for such television equipment; and (C) for determining the Federal share of the cost of each such project;

(3) provides (A) for assigning priorities solely on the basis of such criteria, standards, and methods to eligible projects submitted to the State commission and deemed by it to be otherwise approvable under the provisions of this part; and (B) for approving and recommending to the Commissioner, in the order of such priority, applications covering such eligible projects, and for certifying to the Commissioner the Federal share, determined by the State commission under the State plan, of the cost of the project involved;

(4) provides for affording to every applicant, which has submitted to the State commission a project, an opportunity for a fair hearing before the commission as to the priority assigned to such project or as to any other determination of the commission adversely affecting such applicant; and

(5) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State commission under this part, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this part.

(20 U.S.C. 1123) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 603, 79 Stat. 1262.

BASIC CRITERIA FOR DETERMINING PRIORITIES, FEDERAL SHARE, AND MAINTENANCE OF EFFORT

SEC. 604. (a) As soon as practicable after the enactment of this Act the Commissioner shall by regulation prescribe basic criteria to which the provisions of State plans setting forth standards and methods for determining relative priorities of eligible projects, and the application of such standards and methods to such projects under such plans, shall be subject. Such basic criteria (1) shall be such as will best tend to achieve the objectives of this part while leaving opportunity and flexibility for the development of State plans standards and methods that will best accommodate the varied needs of institutions in the several States, and (2) shall give special consideration to the financial need of the institution or combination of institutions of higher education. Subject to the foregoing requirements, such regulations may establish additional and appropriate basic criteria, including provision for considering the degree to which applicants are effectively utilizing existing facilities and equipment, provision for allowing State plans to group or provide for grouping, in a reasonable manner, facilities or institutions according to functional or educational type for priority purposes, and in view of the national objectives of this Art, provision for considering the degree to which the institution serves students from two or more States or from outside the United States; and in no event shall an institution's readiness to admit such out-of-State students be considered as a priority factor adverse to such institution.

(b) The Federal share for the purposes of this part shall not exceed 50 per centum of the cost of the project, except that a State commission may increase such share not to exceed 80 per centum of such cost in the case of any institution or combination of institutions of higher education providing insufficient resources to participate in the program under this part and inability to acquire such resources. The Commissioner shall establish basic criteria for making determinations under this subsection.

(c) An institution of higher education shall be eligible for a grant for a project pursuant to this part in any fiscal year only if such institution has expended from current funds available for that year for instructional and library purposes, other than personnel costs, during the preceding fiscal year an amount not less than the amount expended, per equivalent full-time student or in the aggregate, whichever is less, by such institution from current funds for such purposes during the second preceding fiscal year. A combination of institutions of higher education shall be eligible for such a grant in accordance with regulations of the Commissioner prescribing requirements for maintenance of effort. The Commissioner shall establish basic criteria for making determinations under this subsection, and may waive so much of the requirement of this subsection as he determines is equitable in accordance with objective criteria of general applicability.

(20 U.S.C. 1124) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 604, 79 Stat. 1263; amended Nov. 3, 1966, P.L. 89-752, sec. 14, 80 Stat. 1244; amended Oct. 16, 1968, P.L. 90-575, Title II, sec. 242, 82 Stat. 1041; amended October 12, 1976, P.L. 94-482, Title I, Part F, sec. 157, 90 Stat. 2156.

APPLICATIONS FOR GRANTS AND CONDITIONS FOR APPROVAL

SEC. 605. (a) Institutions of higher education and combinations of institutions of higher education which desire to obtain grants under this part shall submit applications therefor at such time or times and in such manner as may be prescribed by the Commissioner, and such applications shall contain such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to make the determinations required to be made by him under this part.

(b) The Commissioner shall approve an application covering a project under this part and meeting the requirements prescribed pursuant to subsection (a) if—

(1) the project has been approved and recommended by the appropriate State commission;

(2) the State commission has certified to the Commissioner, in accordance with the State plan, the Federal share of the cost of the project, and sufficient funds to pay such Federal share are available from the applicable allotment of the State (including any applicable reallotment to the State);

(3) the project has, pursuant to the State plan, been assigned a priority that is higher than that of all other projects within such State (chargeable to the same allotment) which meet all the requirements of this section (other than this clause) and for which Federal funds have not been reserved;

(4) the Commissioner determines that the project will be undertaken in an economical manner and will not be overly elaborate or extravagant; and

(5) the Commissioner determines that the application contains or is supported by satisfactory assurances—

(A) that Federal funds received by the applicant will be used solely for defraying the cost of the project covered by such application.

(B) that sufficient funds will be available to meet the non-Federal portion of such cost and to provide for the effective use of the equipment upon completion, and

(C) that the applicant will meet the maintenance of effort requirement in section 604(b).

(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulation, be subject to approval in the same manner as original applications.

(20 U.S.C. 1125) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 605, 79 Stat. 1264; amended Oct. 16, 1968; P.L. 90-575, Title II, sec. 242, 82 Stat. 1041.

AMOUNT OF GRANT—PAYMENT

SEC. 606. Upon his approval of any application for a grant under this part, the Commissioner shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such grant, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the project covered by such application. The Commissioner shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as he may determine. The Commissioner's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application covering such project or upon revision of the estimated cost of a project with respect to which such reservation was made, and in the event of an upward revision of such estimated cost approved by him he may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

(20 U.S.C. 1126) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 606, 79 Stat. 1265.

ADMINISTRATION OF STATE PLANS

SEC. 607. (a) The Commissioner shall not finally disapprove any State plan submitted under this part, or any modification thereof, without first affording the State commission submitting the plan reasonable notice and opportunity for a hearing.

(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State commission administering a State plan approved under this part, finds—

(1) that the State plan has been so changed that it no longer complies with the provisions of section 603, or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State commission that the State will not be regarded as eligible to participate in the program under this part until he is satisfied that there is no longer any such failure to comply.

(20 U.S.C. 1127) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 607, 79 Stat. 1265.

JUDICIAL REVIEW

SEC. 608. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under this part or with his final action under section 607, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

(20 U.S.C. 1128) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 608, 79 Stat. 1265.

LIMITATION ON PAYMENTS

SEC. 609. No grant may be made under this part for equipment or materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

(20 U.S.C. 1129) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 609, 79 Stat. 1206; amended June 23, 1972, P.L. 92-318, sec. 131(d)(2), 86 Stat. 260.

CONSULTATION

SEC. 610. So as to promote the coordination of Federal programs providing assistance in the purchase of laboratory or other special equipment for education in the natural or physical sciences, the Commissioner shall consult with the National Science Foundation and other agencies in developing general policy, under this title, in respect thereof.

(20 U.S.C. 1129a) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 243, 82 Stat. 1041.

PART B—DEVELOPMENT PROGRAMS

INSTITUTES AUTHORIZED

SEC. 621. (a) There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1966, and for each of the two succeeding fiscal years, to enable the Commissioner to arrange, through grants or contracts, with institutions of higher education for the operation by them of short-term workshops or short-term or regular-session institutes for individuals (1) who are engaged in, or preparing to engage in, the use of educational media equipment in teaching in institutions of higher education, or (2) who are, or preparing to be, in institutions of higher education, specialists in educational media or librarians or other specialists using such media.

(b) For the fiscal year ending June 30, 1969, and for the succeeding fiscal year, there may be appropriated for the purposes of this part, only such sums as the Congress may hereafter authorize by law.

(20 U.S.C. 1131) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 621, 79 Stat. 1265.

STIPENDS

SEC. 622. Each individual who attends an institute operated under the provisions of this part shall be eligible (after application therefor) to receive a stipend at the rate of $75 per week for the period of his attendance at such institute and each such individual with one or more dependents shall receive an additional stipend at the rate of $15 per week for each dependent. No stipends shall be paid for attendance at workshops.

(20 U.S.C. 1132) Enacted Nov. 8, 1965, P.L. 89-329, Title VI, sec. 622, 79 Stat. 1266.

TITLE VII—CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF ACADEMIC FACILITIES

PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES[1]

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. (a) The Commissioner shall carry out a program of grants to institutions of higher education for the construction, reconstruction, or renovation of academic facilities in accordance with this part.

(b) For the purpose of making grants under this part, there are hereby authorized to be appropriated $50,000,000, for the fiscal year ending June 30, 1972, $200,000,000 for the fiscal year ending June 30, 1973, and $300,000,000 for each of the fiscal years ending prior to October 1, 1979.

(c) Of the sums appropriated pursuant to section 701(b), an appropriate amount, but in no case less than 24 per centum shall be reserved by the Commissioner and allotted among the States under section 702. The remainder of such sums shall be available for allotment among the States under section 703.

(20 U.S.C. 1132a) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 288; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 161(a), 162(a)(3), 162(b), 90 Stat. 2157.

PUBLIC COMMUNITY COLLEGES AND PUBLIC TECHNICAL INSTITUTES

SEC. 702. (a) Sums reserved pursuant to the first sentence of section 701(c) shall be available for allotments to States for providing academic facilities for public community colleges and public technical institutes.

(b) From the sums available for any fiscal year for the purposes of this section, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the product of—

(1) the number of high school graduates of the State, and

(2) the State's allotment ratio,

bears to the sum of the corresponding products for all the States. The amount allotted to any State under the preceding sentence for any fiscal year which is less than $50,000 shall be increased to $50,000, the total of increases thereby required being derived by proportionately reducing the amount allotted to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than $50,000.

(c)(1)[2] From the sums available for any fiscal year for amount allotted to a State under this section shall be available for the pay-

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[1] This authority contains provisions previously authorized by the Higher Education Facilities Act of 1963 Sec 161(b)(1) of P.L. 92-318 provides as follows:

"(b)(1) The programs authorized by title VII of the Higher Education Act of 1965 shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963."

[2] Apparent error in P.L. 92-318. This sentence should read. "Except as is provided in paragraph (2), the amount allotted to a State under this section shall be available for the payment of

Footnotes continued on next page

ment of the Federal share of the development cost of approved projects for the construction, reconstruction, or renovation of academic facilities within such State for public community colleges and public technical institutes.

(2) Any portion of a State's allotment under this section for any fiscal year for which applications from an institution qualified to receive grants under this section have not been received prior to January 1 of such fiscal year by the State Commission created or designated pursuant to section 1202 shall, if the State Commission so requests, be available for payment of the Federal share of the development cost of approved projects under section 703.

(d) All amounts allotted under this section for any fiscal year which are not reserved as provided in section 701(c) by the close of the fiscal year for which they are allotted shall be reallotted by the Commissioner, on the basis of such factors as he determines to be equitable and reasonable, among the States which, as determined by the Commissioner, are able to use without delay any amounts so reallotted for the purpose set forth in subsection (c)(1). Amounts reallotted under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted.

(a)[1] For the purposes of clause (2) of subsection (b), the "allotment ratio" for any State shall be 1.00 less the product of (A) 0.50 and (B) the quotient obtained by dividing the income per person for the State by the income per person for all the States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam), except that (i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔, (ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66⅔, and (iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Commissioner finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by him on the basis of statistics and data as the Commissioner shall deem adequate and appropriate. The allotment ratios shall be promulgated by the Commissioner as soon as possible after June 30, 1972, and annually thereafter, on the basis of the average of the incomes per person of the State and of all the States for the three most recent consecutive calendar years for which satisfactory data are available from the Department of Commerce.

(f) For the purpose of this section, the term "high school graduate" means a person who has received formal recognition (by diploma, certificate, or similar means) from an approved school for successful completion of four years of education beyond the first eight years of schoolwork, or for demonstration of equivalent achievement. For the purposes of this section the number of high school graduates shall be limited to the number who graduated in the most recent school year for which satisfactory data are available from the Department of Health, Education, and Welfare. The inter-

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Footnotes continued from last page
the Federal share of the development cost of approved projects for the construction of academic facilities within such State for public community colleges and public technical institutes.

[1] Apparent error. Should read (e).

pretation of the definition of "high school graduate" shall fall within the authority of the Commissioner.

(20 U.S.C. 1132a-1) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 288, 289, amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162(a)(3), 90 Stat. 2157.

INSTITUTIONS OF HIGHER EDUCATION OTHER THAN PUBLIC COMMUNITY COLLEGES AND PUBLIC TECHNICAL INSTITUTES

Sec. 703. (a) Sums appropriated pursuant to section 701(b) which remain after the reservation provided for in the first sentence of section 701(c) for any fiscal year shall be available for allotments to States for providing academic facilities for institutions of higher education other than institutions eligible for grants under section 702.

(b) Sums available for the purposes of this section for any fiscal year shall be allotted among the States as follows:

(1) The Commissioner shall allot to each State an amount which bears the same ratio to 50 per centum of such sums as the number of students enrolled in institutions of higher education in such States bears to the number of students so enrolled in all the States; and

(2) The Commissioner shall allot to each State an amount which bears the same ratio to 50 per centum of such sums as the number of students enrolled in grades nine through twelve (both inclusive) of schools in such State bears to the total number of students so enrolled in all the States. For the purposes of this subsection (A) the number of students enrolled in institutions of higher education shall be deemed to be equal to the sum of (i) the number of full-time students and (ii) the full-time equivalent of the number of part-time students as determined by the Commissioner in accordance with regulations; and (B) determinations as to enrollment under either clause (1) or clause (2) shall be made by the Commissioner on the basis of data for the most recent year for which satisfactory data with respect to such enrollment are available to him.

The amount allotted to any State under the preceding sentence for any fiscal year shall not be less than $50,000.

(c)(1) Any amount allotted to a State under this section for any fiscal year shall, except as provided in paragraph (2), be available, in accordance with the provisions of this title, or payment of the Federal share of the development cost of approved projects for the construction, reconstruction, or renovation of academic facilities within such State for institutions of higher education which are not eligible for grants under section 702.

(2) Any portion of a State's allotment under this section for any fiscal year for which applications from an institution qualified to receive grants under this section have not been received by the State Commission prior to January 1 of such fiscal year, shall, if the State Commission so requests, be available for payment of the Federal share of the development cost of approved projects under section 702.

(d) All amounts allotted under this section for any fiscal year, which are not reserved by the close of the fiscal year for which they are allotted, shall be reallotted by the Commissioner, on the basis of such factors as he determines to be equitable and reasonable, among the States which, as determined by the Commissioner, are able to use without delay any amounts so reallotted for the purposes of this section. Amounts reallotted under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted.

(20 U.S.C. 1132a-2) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 290; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162(a)(3), 90 Stat. 2157.

STATE PLANS

SEC. 704. (a) Any State desiring to participate in the grant program authorized by this part for any fiscal year shall submit for that year to the Commissioner through the State Commission a State plan for such participation. Such plan shall be submitted at such time, in such manner, and containing such information as may be necessary to enable the Commissioner to carry out his functions under this part and shall—

(1) provide that it shall be administered by the State Commission;

(2) set forth objective standards and methods which are consistent with basic criteria prescribed by regulations pursuant to section 706, for—

(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State for the construction, reconstruction, or renovation of academic facilities, and

(B) determining the Federal share of the development cost of each such project;

(3) provide that the funds apportioned for any fiscal year under section 702 or 703 shall be used only for the purposes set forth therein;

(4) provide for—

(A) assigning priorities solely on the basis of such criteria, standards, and methods to eligible projects submitted to the State Commission and found by it otherwise approvable under the provisions of this part, and

(B) approving and recommending to the Commissioner, in the order of such priority, applications covering such eligible projects, and for certifying to the Commissioner the Federal share of the development cost of the project involved;

(5) provide for affording to every applicant which has submitted a project to the State Commission an opportunity for a fair hearing before the State Commission as to the priority assigned to such project, or as to any other determination of the State Commission adversely affecting such applicant; and

(6) provide for—

(A) such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State Commission under this part, and

(B) making such reports, in such form and containing such information, as may be reasonably necessary to enable the Commissioner to perform his functions under this part.

(b) The Commissioner shall not disapprove any State plan submitted under this section unless he determines after reasonable notice and opportunity for hearing and comment, that the plan is inconsistent with a specific provision of this section or other relevant sections of this title.

(20 U.S.C. 1132a-3) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 290, 291; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162(c), 90 Stat. 2157.

ELIGIBILITY FOR GRANTS

SEC. 705. (a) Except as is provided in subsection (b), an institution of higher education shall be eligible for a grant under this part only if the State Commission determines, in accordance with criteria prescribed by regulation, that the construction, reconstruction, or renovation project for which assistance is sought will, either alone or together with other construction, reconstruction, or renovation to be undertaken within a reasonable time, result in—

(1) a substantial expansion of, or

(2) in the case of a new institution, the creation of urgently needed (A) enrollment capacity, (B) the capacity to provide health care for students and institutional personnel, or (C) capacity to carry out extension and continuing education programs.

(b) If the Commissioner determines, in accordance with criteria established by regulation, that the student enrollment capacity of an institution of higher education would decrease if an urgently needed academic facility is not constructed, reconstructed, or renovated the construction, reconstruction, or renovation of such a facility may be considered, for the purposes of this section, to result in an expansion of the institution's student enrollment capacity.

(20 U.S.C. 1132a-4) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 291, 292; amended October 12, 1976, P.L. 94-482, Title I, Part G, secs. 162(a)(3), 162(a)(4), 162(d), 90 Stat. 2157.

BASIC CRITERIA FOR DETERMINING PRIORITIES AND FEDERAL SHARE

SEC. 706. (a)(1) The Commissioner shall, by regulation, prescribe basic criteria to which the provisions of State plans, setting forth standards and methods for determining relative priorities of eligible construction, reconstruction, or renovation projects, and the application of such standards and methods to such projects under such plans, shall be subject.

(2) Such basic criteria shall, at least—

(A) be such as will best tend to achieve the objectives of this part, while leaving opportunity and flexibility to State Commissions for the development of State plan standards and methods that will best accommodate the varied needs of institutions in the several States;

(B) give special consideration to the expansion of undergraduate enrollment capacity; and

(C) give consideration to the expansion of capacity to provide needed health care to students and institutional personnel.

(3) Subject to paragraph (2), such regulations may establish additional and appropriate basic criteria, including—

(A) provision for considering the degree to which applicant institutions are effectively utilizing existing facilities;

(B) provision for allowing State plans to group, or to allow grouping, in a reasonable manner, facilities or institutions according to functional or educational type for priority purposes; and

(C) in view of the national objectives of this title, provision for considering the degree to which applicant institutions serve students from two or more States or from outside the United States.

(4) In no event shall such basic criteria permit the readiness of an institution to admit out-of-State students to be considered as a priority adverse to such institution.

(b)(1) The Commissioner shall prescribe, by regulation, the base criteria for determing the Federal share of the development cost of any eligible project under this part within a State, to which criteria the applicable standards and methods set forth in the State plan for such State shall conform.

(2) In no case shall such basic criteria permit the Federal share to exceed 50 per centum of the development cost of a project.

(c) Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section, notwithstanding clause (2) of subsection (a) thereof.

(20 U.S.C. 1132a-5) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat 292; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162(a)(3), 90 Stat. 2157.

APPLICATIONS FOR GRANTS; AMOUNT OF GRANTS

SEC. 707. (a)(1) Any institution of higher education which desires to receive a grant under this part shall submit an application therefor at such time or times, in such manner, and containing such information as the Commissioner shall prescribe by regulation.

(2) The Commissioner shall approve an application for a construction, reconstruction, or renovation project under this part if he determines that—

(A) it meets the requirements prescribed under paragraph (1);

(B) the project for which assistance is sought is an eligible project under section 705;

(C) such project has been submitted through, and been approved and recommended by, the appropriate State Commission;

(D) such State Commission has certified to the Commissioner, in accordance with the State plan, the Federal share of the development cost of the project, and sufficient funds to pay such Federal share are available from the applicable apportionment of the State;

(E) such project has, pursuant to the State plan, been assigned a priority that is higher than that assigned to all other projects within the State which are chargeable to the same apportionment, and meet the requirements of this section, and for which Federal funds have not yet been reserved;

(F) the project, reconstruction, or renovation to be carried out under the application will be undertaken in a timely and economic manner and will not be of elaborate or extravagant design or materials;

(G) in the case of a student health care facility, no assistance will be provided for such facility under title IV of the Housing Act of 1950; and

(H) the application contains assurances or is supported by satisfactory assurances—

(i) that the title to the site is in accordance with regulations of the Commissioner relating thereto,

(ii) that Federal funds received by the applicant will be solely used for defraying the development cost of the project covered by the application,

(iii) that sufficient funds will be available to meet the non-Federal portion of such cost and to provide for the effective use of the academic facility upon completion, and

(iv) that the facility will be used as an academic facility for at least the period of the Federal interest therein, as provided in section 781.

(b) Amendments to applications submitted under this section shall, except as the Commissioner may otherwise provide by regulations, be subject to approval in the same manner as original applications.

(c)(1) Upon his approval of any application under this section, the Commissioner shall reserve from the applicable allotment available therefor, the amount of such grant, which shall be equal to the Federal share of the development cost of the project covered by the application. The Commissioner shall pay such reserved amount, in advance or by way of reimbursement, and in such installments consistent with construction, reconstruction, or renovation progress, as he may determine.

(2) Upon approval of an amendment of an application, or revision of the estimated development cost of a project, for which there has been a reservation made under paragraph (1), the Commissioner may adjust the amount so reserved, accordingly. If an adjustment under the first sentence of this paragraph results in a greater amount being reserved, he may reserve the Federal share of the added cost only from the applicable allotment available at the time of such approval.

(20 U.S.C. 1132a-6) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 292, 293; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162(a) (3), (a) (5), 90 Stat. 2157.

ADMINISTRATION OF STATE PLANS; JUDICIAL REVIEW

Sec. 708. (a)(1) The Commissioner shall not finally disapprove any State plan submitted under this part, or any modification thereof, without first affording the State Commission submitting the plan reasonable notice and opportunity for a hearing.

(2) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State Commission administering a State plan approved under this part, finds—

(A) that the State plan has been so changed that it no longer complies with the provisions of section 704, or

(B) that in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State Commission that the State will not be regarded as eligible to participate in the program under this part until he is satisfied that there is no longer such failure to comply.

(b)(1) If any State is dissatified with the Commissioner's final action with respect to the approval of its State plan submitted under section 704, or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Commissioner if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

(20 U.S.C. 1132a-7) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 293, 294.

PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

AUTHORIZATION

SEC. 721. (a)(1) The Commissioner shall carry out a program of making grants to institutions of higher education to assist them in improving existing graduate schools and cooperative graduate centers, and in establishing graduate schools and cooperative graduate centers of excellence, in order to increase the supply of highly qualified personnel needed by communities, industries, and governments and for teaching and research.

(2) The Commissioner is authorized to make grants to or enter into contracts with institutions of higher education for the construction of facilities for model intercultural programs designed to integrate the educational requirements of substantive knowledge and language proficiency.

(b) For the purpose of making grants under this part, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year ending June 30, 1973, $60,000,000 for the fiscal year ending June 30, 1974, and

$80,000,000 for each of the fiscal years ending prior to October 1, 1979.

(20 U.S.C. 1132a-7) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 293; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 161(b), 162(e), 90 Stat. 2156.

APPLICATION FOR, AND AMOUNT OF, GRANTS

Sec. 722. (a)(1) Any institution of higher education desiring to receive a grant under this part shall submit an application therefor at such time, in such manner, and containing such information as the Commissioner may require.

(2) In determining whether to approve applications under this section, the order in which to approve such applications, and the amount of grants, the Commissioner shall give consideration to the extent to which the projects for which assistance is sought will contribute toward achieving the objectives of this part, and the extent to which they will aid in attaining a wider distribution of graduate schools and cooperative graduate centers throughout the States. In no case shall the total of the payments from appropriations for any fiscal year pursuant to section 721 made with respect to projects in any State exceed an amount equal to 12½ per centum of such appropriations.

(3) For the purposes of this section, the term "institution of higher education" includes cooperative graduate center boards.

(b) The Commissioner shall not approve any application under this section until he has obtained the advice and recommendations of a panel of specialists who are not regular full-time employees of the Federal Government and who are competent to evaluate such application.

(c) No grant under this part may be in an amount in excess of 50 per centum of the development cost of the project covered by the application.

(20 U.S.C. 1132b-1) Enacted June 3, 1972, P.L. 92-318, sec. 161, 86 Stat. 294, 295.

Part C—Loans for Construction, Reconstruction and Renovation of Academic Facilities

AUTHORIZATION

Sec. 741. (a)(1) The Commissioner shall carry out a program of making and insuring loans, in accordance with the provisions of this part.

(2) The Commissioner is authorized to make loans to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and to insure loans.

(b) For the purpose of making payments into the fund established under section 744, there are hereby authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1972, $100,000,000 for the fiscal year ending June 30, 1973, $150,000,000 for the fiscal year ending June 30, 1974, and $200,000,000 for each of the fiscal years ending prior to October 1, 1979. Sums appropriated pursuant to this subsection for any fiscal year shall be available without fiscal year limitations.

(20 U.S.C. 1132c) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 295; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 161(c), 90 Stat. 2156; sec. 162(a)(3), 90 Stat. 2157.

ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS OF LOANS

SEC. 742. (a) No loan pursuant to this part shall be made unless the Commissioner finds (1) that not less than 20 per centum of the development cost of the facility will be financed from non-Federal sources, (2) that the applicant is unable to secure the amount of such loan from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this part, (3) that the construction, reconstruction, or renovation will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials, and (4) that, in the case of a project to construct, reconstruct or renovate an infirmary or other facility designed to provide primarily for outpatient care of students and institutional personnel, no financial assistance will be provided such project under title IV of the Housing Act of 1950.

(b) A loan pursuant to this part shall be secured in such manner and shall be repaid within such period not exceeding fifty years, as may be determined by the Commissioner; and it shall bear interest at (1) a rate determined by the Commissioner which shall not be less than a per annum rate that is one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 3 per centum per annum, whichever is the lesser.

(20 U.S.C. 1132c-1) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 295; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162(a)(3), (a)(6), 90 Stat. 2157.

GENERAL PROVISIONS FOR LOAN PROGRAM

SEC. 743. (a) Financial transactions of the Commissioner under this part, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

(b) In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Commissioner may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Commissioner shall survive notwithstanding any change in the person occupying the office of the Commissioner or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final,

shall be issued against the Commissioner or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan pursuant to this part; and, in the event of any such acquisition (and notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States), complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property; except that (1) such action shall not preclude any other action by him to recover any deficiency in the amounts loaned and (2) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(4) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(5) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him pursuant to this section including (A) the granting of a temporary moratorium on the repayment of principal or interest or both to any institution of higher education or higher education building agency the Commissioner finds to be temporarily unable to make such repayment without undue financial hardship, if such institution or agency presents, and the Commissioner approves, a specific plan to make such repayment including a schedule for such repayment, and (B) the granting to any such institution or agency for which he has authorized a loan under this part prior to January 1, 1976, of the option to pay into the fund established under section 744 an amount equal to 75 per centum of the total current obligation of the institution or agency under this part, in full accord and satisfaction of such total current obligation, if such institution or agency desiring to exercise such an option makes payment from non-Federal sources prior to October 1, 1979; and

(6) include in any contract or instrument made pursuant to this part such other covenants, conditions, or provisions (including provisions designed to assure against use of the facility, constructed with the aid of a loan under this part, for purposes described in section 782(1)), as he may deem necessary to assure that the purpose of this part will be achieved.

(20 U.S.C. 1132c-2) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 296; amended, October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162(e), 90 Stat. 2157.

REVOLVING LOAN FUND AND INSURANCE FUND[1]

SEC. 744. (a) There is hereby created within the Treasury a separate fund for higher education academic facilities loans and loan insurance (hereafter in this section called the "fund") which shall be available to the Commissioner without fiscal year limitation as a revolving fund for the purposes of making loans and insuring loans under this part. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriation acts.

(b)(1) The Commissioner shall transfer to the fund available appropriations provided under section 741(b) to provide capital for the fund. All amounts received by the Commissioner as interest payments or repayments of principal on loans, and any other moneys, property, or assets derived by him from his operations in connection with this part, including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets of the fund, shall be deposited in the fund.

(2) All loans, expenses, and payments pursuant to operations of the Commissioner under this part shall be paid from the fund, including (but not limited to) expenses and payments of the Commissioner in connection with sale, under section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. From time to time, and at least at the close of each fiscal year, the Commissioner shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this part or available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Commissioner determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(20 U.S.C. 1132c-3) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 296, 297.

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[1] Sec. 161(b)(4) of P.L. 92-318 provides as follows:

"(4) The revolving fund created by section 744 of the Higher Education Act of 1965 shall be deemed to be a continuation of the revolving fund created by section 305 of the Higher Education Facilities Act of 1963. Any sums in the fund for higher education academic facilities created by such section 305 on the date of enactment of this Act shall be transferred to the fund created by section 744 of the Higher Education Act of 1965, and all such funds shall be deemed to have been made available for such fund. Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this sentence, any sums appropriated pursuant to section 303(c) of the Higher Education Facilities Act of 1963 for any fiscal year ending prior to July 1, 1973, which have not been loaned under title III of that Act of 1963 shall be deemed to have been appropriated pursuant to section 741(b) of the Higher Education Act of 1965 for the fiscal year ending June 30, 1973."

ANNUAL INTEREST GRANTS

Sec. 745. (a) To assist institutions of higher education and higher education building agencies to reduce the cost of borrowing from other sources for the construction, reconstruction, or renovation of academic facilities, the Commissioner may make annual interest grants to such institutions and agencies.

(b) Annual interest grants to an institution of higher education or higher education building agency with respect to any academic facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount not greater than the difference between (1) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amounts if the applicable interest rate were the maximum rate specified in section 742(b). The amount on which such grant is based shall be approved by the Secretary.

(c)(1) There are hereby authorized to be appropriated to the Commissioner such sums as may be necessary for the payment of annual interest grants to institutions of higher education and higher education building agencies in accordance with this section.

(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts; and in any event the total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into under this section shall not exceed $5,000,000 which amount shall be increased by $6,750,000 on July 1, 1969, and by $13,500,000 on July 1, 1970 and on the first day of each fiscal year during the period ending September 30, 1979.

(d) Not more than 12½ per centum of the funds provided for in this section for grants may be used within any one State.

(e) No annual interest grant pursuant to this section shall be made unless the Commissioner finds (1) that not less than 10 per centum of the development costs of the facility will be financed from non-Federal sources, (2) that the applicant is unable to secure a loan in the amount of the loan with respect to which the annual interest grant is to be made, from the other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title, and (3) that the construction, reconstruction, or renovation will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials. For purposes of this section, a loan with respect to which an interest grant is made under this section shall not be considered financing from a non-Federal source. For purposes of the other provisions of this title, such a loan shall be considered financing from a non-Federal source.

(20 U.S.C. 1132c-4) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 297, 298; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 161(d), 90 Stat. 2156; sec. 162(a)(3), 90 Stat. 2157; amended June 15, 1977, P.L. 95-43, sec. 1(b)(6), 91 Stat. 218.

ACADEMIC FACILITIES LOAN INSURANCE

SEC. 746. (a)(1) In order to assist nonprofit private institutions of higher education and nonprofit private higher education building agencies to procure loans for the construction, reconstruction, or renovation of academic facilities, the Commissioner may insure the payment of interest and principal on such loans if such institutions and agencies meet, with respect to such loans, criteria prescribed by or under section 745 for the making of annual interest grants under such section.

(2) No loan insurance under paragraph (1) may apply to so much of the principal amount of any loan as exceeds 90 per centum of the development cost of the academic facility with respect to which such loan was made.

(b)(1) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under this section the amount of any payment made pursuant to that insurance, unless the Commissioner for good cause waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

(2) Any insurance issued by the Commissioner pursuant to subsection (a) shall be incontestable in the hands of the institution or agency on whose behalf such insurance is issued, and as to any agency, organization, or individual who makes or contracts to make a loan to such institution or agency, in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the agency, organization, or individual who makes or contracts to make such loan.

(c) Insurance may be issued by the Commissioner under subsection (a) only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Commissioner may charge a premium for such insurance in an amount reasonably determined by him to be necessary to cover administrative expenses and probable losses under subsections (a) and (b). Such insurance shall be subject to such further terms and conditions as the Commissioner determines to be necessary.

(20 U.S.C. 1132c-5) Enacted June 23, 1972, P.L. 92-318, sec.161, 86 Stat. 298, 299; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162(a)(3), 90 Stat. 2157.

PART D—ASSISTANCE IN MAJOR DISASTER AREAS

AUTHORIZATION

SEC. 761. (a) The Commissioner shall carry out a program of financial assistance to public institutions of higher education, in accordance with the provisions of this part.

(b) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this part.

(20 U.S.C. 1132d) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 299.

ASSISTANCE FOR CONSTRUCTION OF ACADEMIC FACILITIES

SEC. 762. (a) If the Director of the Office of Emergency Preparedness determines that a public institution of higher education is, in whole or in part, within an area which, after June 30, 1971, and before October 1, 1979, has suffered a disaster which is a major disaster, and if the Commissioner determines with respect to such institution that—

(1) the academic facilities of such institution have been destroyed or seriously damaged as a result of the disaster;

(2) such institution is exercising due diligence in availing itself of State and other financial assistance available for restoration or replacement of such facilities; and

(3) the institution does not have sufficient funds available from such other sources, including proceeds of insurance on the facilities, to provide for the restoration or replacement of such facilities;

the Commissioner is authorized to provide such assistance to such institution as is provided in subsection (b).

(b)(1) Assistance under this section shall be a grant to an eligible institution, as determined under subsection (a), of an amount necessary to enable the institution to carry out the construction necessary to restore or replace the academic facilities determined under clause (1) of subsection (a) to be damaged or destroyed.

(2) The maximum amount of a grant under this section shall not exceed the cost of construction incident to the restoration or replacement of the facilities determined to be damaged or destroyed under clause (1) of subsection (a) less the amount of additional assistance determined under clause (3) of subsection (a) to be available.

(c)(1) Assistance under this section may include a grant of an amount necessary to enable the institution to lease, or otherwise obtain the use of, such facilities as are needed to replace, temporarily, facilities which have been made unavailable as a result of a major disaster.

(2) An institution shall be eligible for assistance under this subsection if it qualifies for assistance under subsection (a), whether or not it receives assistance under subsection (b).

(20 U.S.C. 1132d-1) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 299; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 161(e), 90 Stat. 2156.

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EQUIPMENT AND SUPPLIES

Sec. 763. If an institution is eligible for assistance under section 762(a), the Commissioner is authorized, whether or not such institution receives assistance under section 762(b), to make a grant to such institution of not in excess of an amount he determines necessary to replace equipment, maintenance supplies, and instructional supplies (including books, and curricular and program materials) destroyed or seriously damaged as a result of the major disaster.

(20 U.S.C. 1132d-2) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 300; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162(h), 90 Stat. 2157.

REPAYABLE ASSISTANCE IN LIEU OF A GRANT

Sec. 764. If the Commissioner's determinations under clauses (2) and (3) of section 762(a) indicate that financial resources will become available to an institution otherwise qualified for assistance under section 762 at some future date or dates, he is authorized, subject to such terms and conditions as may be in the public interest, to extend assistance to such institution under section 762(b), 762(c), or 763 (or all such sections) with an agreement with such institution which provides that the institution will repay part or all of the funds received by it under this part.

(20 U.S.C. 1132d-3) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 300.

APPLICATIONS

Sec. 765. No payment may be made to a public institution of higher education for academic facilities under section 762 or for assistance under section 763 unless an application therefor is submitted through the appropriate State Commission and is filed with the Commissioner in accordance with regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the institutions which have submitted approvable applications. No payment may be made under section 762(b) unless the Commissioner finds, after consultation with the State Commission, that the project or projects with respect to which it is made are not inconsistent with overall State plans, submitted under section 704(a), for the construction of academic facilities. All determinations made by the Commissioner under this part shall be made only after consultation with the appropriate State Commission.

(20 U.S.C. 1132d-4) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 300.

DEFINITIONS

Sec. 766. For the purposes of this part—

(1) the term "major disaster" means a disaster determined to be a major disaster as defined in section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)); and

(2) an institution of higher education shall be deemed to be a "public institution of higher education" if such institution is

found by the Commissioner to be under public supervision and control.

(20 U.S.C. 1132d-5) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 300.

PART E—RECONSTRUCTION AND RENOVATION

SEC. 771. (a) The Commissioner is authorized to make grants from funds appropriated under section 701(b), loans from funds appropriated under section 741(b), or loans, to the extent provided in advance by appropriations Acts, from any unused amounts in the fund established under section 744, notwithstanding any prior restrictions on the use of such unused amounts, to institutions of higher education and to higher education building agencies for the reconstruction or renovation of academic facilities if the primary purpose of such reconstruction or renovation is—

(1) to enable such institutions to economize on the use of energy resources, or

(2) to enable such institutions to bring their academic facilities into conformity with the requirements of—

(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, or

(B) environmental protection or health and safety programs mandated by Federal, State or local law, if such requirements were not in effect at the time such facilities were constructed.

(b)(1) In establishing criteria for determining whether the primary purpose of a proposed reconstruction or renovation is to conserve energy, the Commissioner shall consult with other Federal agencies which have specific expertise in energy conservation.

(2) In establishing criteria for determining whether the primary purpose of a proposed reconstruction or renovation is to enable such facility to meet environmental protection standards or health or safety requirements imposed under law, the Commissioner shall consult with the appropriate Federal, State or local agency responsible for the administration of such law.

(3) In establishing criteria for determining whether the primary purpose of a proposed reconstruction or renovation is to enable such facility to comply with the Act of August 12, 1968, the Commissioner shall consult with the Architectural and Transportation Barriers Compliance Board and the Administrator of General Services.

(c) A loan pursuant to this section shall be repaid within such period not exceeding twenty years as may be determined by the Commissioner.

(d) Grants and loans awarded for the purposes of this part shall not be subject to the provisions of subsections (a) and (b) of section 781. The Commissioner shall, with respect to each such grant or loan, determine the period which shall be deemed to be the period of Federal interest in the facility reconstructed or renovated. If, within such period, such facility ceases to be used as an academic facility, the United States shall recover from the applicant (or its successor in title or possession) an amount representing the depreciated value of the improvements made with such grant or loan, *determined in accordance with the procedures set forth in the last sentence of section 781(b).*

(e) Funds appropriated under section 701(b) available for grants under this part may be used for graduate and undergraduate facilities and may be used without regard to whether such funds will increase or create enrollment capacity, health care capacity, or capacity to carry out extension and continuing education programs.

(20 U.S.C. 1132d-11) Enacted October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162(i), 90 Stat. 2158; amended June 15, 1977, P.L. 95-43, sec. 1(a)(43), 91 Stat. 217, 218.

PART F—GENERAL

RECOVERY OF PAYMENTS

SEC. 781. (a) The Congress hereby finds and declares that, if a facility constructed with the aid of a grant or grants under part A or B of this title is used as an academic facility for twenty years following completion of such construction, the public benefit accruing to the United States from such use will equal in value the amount of such grant or grants. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

(b) If, within twenty years after completion of construction of an academic facility which has been constructed, in part with a grant or grants under part A or B of this title—

(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term "academic facility", unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal grant or grants bore to the development cost of the facility financed with the aid of such grant or grants. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) Notwithstanding the provisions of subsections (a) and (b), no facility constructed, reconstructed or renovated with assistance under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

(20 U.S.C. 1132e) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 300, 301; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162 (a)(3), (a)(4), 90 Stat. 2157; amended June 15, 1977, P.L. 95-43, sec. 1(a)(44), 91 Stat. 218.

DEFINITIONS

SEC. 782. The following definitions apply to terms used in this title:

(1)(A) Except as provided in subparagraph (B) of this paragraph, the term "academic facilities" means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of parts A, C, and D, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary of Health, Education, and Welfare may prescribe or approve in order to insure that facilities constructed, reconstructed or renovated with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(B) The term "academic facilities" shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Commissioner finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act, except that the term "academic facilities" may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v) of this subsection.

(2)(A) The term "construction" means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purposes of the preceding sentence, the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term "initial equipment" means equipment acquired and installed in connection with construction; and the terms "equipment", "initial equipment", and "built-in equipment" shall be more particularly defined by the Commissioner by regulation.

(B) The term "reconstruction or renovation" means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purposes of the preceding sentence, the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term "initial equipment" means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms "equipment", "initial equipment", and "built-in equipment" shall be more particularly defined by the Commissioner by regulation; and the term "rehabilitation, alteration, conversion, or improvement" includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

(3)(A) The term "development cost", with respect to an academic facility, means the amount found by the Commissioner to be the cost, to the applicant for a grant or loan under this title of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

(B) In determining the development cost with respect to an academic facility, the Commissioner may include expenditures for works of art for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

(4) The term "Federal share" means, except as provided in section 706(b)(2), in the case of any project a percentage (as determined under the applicable State plan) in excess of 50 per centum of its development cost.

(5) The term "higher education building agency" means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (I) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (II) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution).

(6) The term "public community college and public technical institute" means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

(7) The term "cooperative graduate center" means an institution or program created by two or more institutions of higher education which will offer to the students of the participating institutions of higher education graduate work which could not be offered with the same proficiency or economy (or both) at the individual institution of higher education. The center may be located or the program carried out on the campus of any of the participating institutions or at a separate location.

(8) The term "cooperative graduate center board" means a duly constituted board established to construct and maintain the cooperative graduate center and coordinate academic programs. The board shall be composed of representatives of each of the institutions of higher education participating in the center and of the community involved. At least one-third of the board's members shall be community representatives. The board shall elect by a majority vote a chairman from among its membership.

(9) The term "public educational institution" does not include a school or institution of any agency of the United States.

(10) The term "State" includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1132e-1) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 303; amended October 12, 1976, P.L. 94-482, Title I, Part G, sec. 162(a)(3), (a)(4), (j)(2), 90 Stat. 2157, 2158, 2159.

TITLE VIII—COOPERATIVE EDUCATION

APPROPRIATIONS AUTHORIZED

SEC. 801. (a) There are authorized to be appropriated—

(1) for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, $13,000,000;

(2) for the fiscal year 1977, $15,000,000;

(3) for the fiscal year 1978, $20,000,000;

(4) for the fiscal year 1979, $25,000,000; and

(5) for each of the fiscal years 1980, 1981, and 1982, $25,000,000, to enable the Commissioner to make grants pursuant to section 802 to institutions of higher education, or to combinations of such institutions, for the planning, establishment, expansion, or carrying out by such institutions or combinations of programs of cooperative education. Such programs shall provide alternating periods of academic study and of public or private employment, the latter affording students not only the opportunity to earn the funds necessary for continuing and completing their education but, so far as practicable, giving them work experience related to their academic or occupational objectives.

(b) There are further authorized to be appropriated—

(1) $1,000,000 for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976;

(2) $1,500,000 for the fiscal year 1977;

(3) $2,500,000 for the fiscal year 1978; and

(4) $3,000,000 for each of the fiscal years 1978, 1979, 1980, 1981, and 1982,

to enable the Commissioner to make training, demonstration, or research grants or contracts pursuant to section 803.

(c) Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this part.

(20 U.S.C. 1133) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 251, 82 Stat. 1042, amended June 23, 1972, P.L. 92-318, sec. 172, 86 Stat. 304; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 129(b), 90 Stat. 2144, 2145.

GRANTS FOR PROGRAMS OF COOPERATIVE EDUCATION

SEC. 802. (a) From the sums appropriated pursuant to subsection (a) of section 801, and for the purposes set forth therein, the Commissioner is authorized to make grants to institutions of higher education that have applied therefor in accordance with subsection (b) of this section, in amounts not in excess of $175,000 to any one such institution for any fiscal year, and to combinations of such institutions (that have so applied) in amounts not to exceed an amount equal to the product of $125,000 times the number of institutions participating in such combination, for any fiscal year.

(b) Each application for a grant authorized by subsection (a) of this section shall be filed with the Commissioner at such time or times as he may prescribe and shall—

(1) set forth programs or activities for which a grant is authorized under this section;

(2) specify the portion or portions of such programs or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activity not less than was expended for such purpose during the previous fiscal year;

(4) provide that the applicant shall make such reports and keep such records as are essential to insure that the applicant's programs or activities are conducted in accordance with the provisions of this part;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this part; and

(6) include such other information as is essential to carry out the provisions of this part.

(c) No institution of higher education may receive, individually or as a participant in a combination of such institutions, grants under this section for more than five fiscal years. No such institution or combination thereof may receive—

(1) a grant in excess of 100 per centum of the total administrative cost for the first of such fiscal years;

(2) a grant in excess of 90 per centum of such cost for the second of such years;

(3) a grant in excess of 80 per centum of such cost for the third of such years;

(4) a grant in excess of 60 per centum of such cost for the fourth of such years; or

(5) a grant in excess of 30 per centum of such cost for the fifth of such years.

Any provision of law to the contrary notwithstanding, the Commissioner shall not waive the provisions of this subsection.

(d) In approving applications under this section, the Commissioner shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

(1) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by employers,

(2) the commitment of the institution of higher education to cooperative education as demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance, and

(3) such other factors as are consistent with the purposes of this section.

(20 U.S.C. 1133a) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 251, 82 Stat. 1043; amended June 23, 1972, P.L. 92-418, sec. 171, 86 Stat. 304; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 129(b), 90 Stat. 2145, 2146.

GRANTS AND CONTRACTS FOR TRAINING AND RESEARCH

SEC. 803. From the sums appropriated pursuant to subsection (b) of section 801, the Commissioner is authorized, for the training of persons in the planning, establishment, administration, or coordination of programs of cooperative education, for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education, or for research into methods of improving, developing, or promoting the use of cooperative education programs in institutions of higher education, to—

(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

(2) make grants to or contracts with other public or private nonprofit agencies or organizations, when such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

(20 U.S.C. 1133b) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 251, 82 Stat. 1043; amended October 12, 1976, P.L. 94-482, Title I, Part D, sec. 129(b), 90 Stat. 2146.

TITLE IX—GRADUATE PROGRAMS

PART A—GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

PURPOSES; AUTHORIZATION

SEC. 901. (a) It is the purpose of this part to make financial assistance available to institutions of higher education—

(1) to strengthen, improve and where necessary expand the quality of graduate and professional programs leading to an advanced degree (other than a medical degree) in such institutions;

(2) to establish, strengthen, and improve programs designed to prepare graduate and professional students for public service; and

(3) to assist in strengthening undergraduate programs of instruction in the areas described in clauses (1) and (2), whenever the Commissioner determines that strengthened undergraduate programs of instruction will contribute to the purposes of such clauses.

(b) The Commissioner shall carry out a program of making grants to institutions of higher education to carry out the purposes set forth in subsection (a).

(c) There are authorized to be appropriated $50,000,000 for each of the fiscal years ending prior to October 1, 1979, for the purpose of this part.

(20 U.S.C. 1134) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 304; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(a)(1), (a)(2), 90 Stat. 2159.

APPLICATIONS FOR GRANTS

SEC. 902. (a) The Commissioner is authorized to make grants to institutions of higher education in accordance with the provisions of this part. An institution of higher education desiring to receive a grant under this part shall submit to the Commissioner an application therefor at such time or times, in such manner, and containing such information as the Commissioner may prescribe by regulation. Such application shall set forth a program of activities for carrying out one or more of the purposes set forth in section 901(a) in such detail as will enable the Commissioner to determine the degree to which such program will accomplish such purpose or purposes, and such other policies, procedures, and assurances as the Commissioner may require by regulation.

(b) The Commissioner shall approve an application only if he determines that the application (1) sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part, and (2) provides assurances that the institution has notified the appropriate State commission (established or designated under section 1202 of this Act) and that the State commission has been given the opportunity to offer recommendations on the application to the institution and to the Commissioner.

(c) In considering an application under this part for a program of activities from an institution of higher education within a State, the Commissioner shall assure that consideration is given to the degree to which such program will be consistent with State, regional, or national priorities.

(20 U.S.C. 1134a) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 305; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(a)(3), 90 Stat. 2159

AUTHORIZED ACTIVITIES

SEC. 903. (a) The funds appropriated pursuant to section 901(c) may be used for such purposes as the Commissioner determines will best accomplish the purposes of this part.

(b) Such funds may be used solely for the purposes set forth in an application approved under section 902 and solely for the purpose of accomplishing the purposes stated in section 901(a), and to that end such funds may be used for—

(1) faculty improvement;

(2) the expansion of graduate and professional programs of study;

(3) the acquisition of appropriate instructional equipment and materials;

(4) cooperative arrangements among graduate and professional schools;

(5) the strengthening of graduate and professional school administration; and

(6) the development of proposed graduate and professional programs; and

(7) needed innovation in graduate and professional programs.

(c) No sums granted under this part may be used—

(1) for payment in excess of 66⅔ per centum of the total cost of such project or activity;

(2) for payment in excess of 50 per centum of the cost of the purchase or rental of books, audiovisual aids, scientific apparatus, or other materials or equipment, less any per centum of such cost, as determined by the Commissioner, that is paid

from sums received (other than under this part) as Federal financial assistance; or

(3) for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

(20 U.S.C. 1134b) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 305, 306; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(a)(4), 90 Stat. 2160.

RESEARCH AND STUDIES

SEC. 904. The Commissioner is authorized, directly or by contract, to conduct studies and research activities in connection with the need for, and improvement of, graduate programs in various fields of study in institutions of higher education throughout the United States.

(20 U.S.C. 1134c) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 306.

PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

APPROPRIATIONS AUTHORIZED

SEC. 921. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

(20 U.S.C. 1134d) Enacted June 30, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 306; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(b), 90 Stat. 2160.

NUMBER OF FELLOWSHIPS

SEC. 922. (a) During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1979, the Commissioner is authorized to award not to exceed seven thousand five hundred fellowships to be used for study in graduate programs at institutions of higher education. Such fellowships may be awarded for such period of study as the Commissioner may determine but not in excess of thirty-six months except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

(c) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances, for dependents or payments to institutions pursuant to the recipient's fellowship award.

(20 U.S.C. 1134e) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 306; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(b), 90 Stat 2160.

AWARD OF FELLOWSHIPS AND APPROVAL OF GRADUATE PROGRAMS

SEC. 923. (a) The total number of fellowships authorized by section 922(a) to be awarded during a fiscal year shall be awarded by the Commissioner on such bases as he may determine, except that recipients of such fellowships shall be individuals who have been admitted or who are enrolled in graduate or professional programs approved by the Commissioner and who are pursuing, a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree. The Commissioner shall approve a graduate program of an institution of higher education only upon his finding that the application contains satisfactory assurance that the institution will provide special orientations and practical experiences designed to prepare its fellowship recipients (1) for academic careers at some level of education beyond the high school, or (2) for other than academic careers in professional career fields of importance to the national interest, as determined by the Commissioner.

(b) In determining priorities and procedures for the award of fellowships under this section the Commissioner shall—

(1) take into account present and projected needs for highly trained individuals in all areas of education beyond high school,

(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority,

(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups who have been traditionally underrepresented in colleges and universities, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of individuals of that group in any community, State, section, or other area,

(4) assure that consideration in awarding fellowships under this part is given (A) to individuals who have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies, or (B) to individuals with varied backgrounds and experiences who have acquired such backgrounds and experiences in other than academic settings.

(5) seek to achieve a reasonably equitable geographical distribution of graduate programs approved under this section,

based upon such factors as student enrollments in institutions of higher education and population.

(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

(20 U.S.C. 1134f) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 306, 307; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(b), 90 Stat. 2160, 2161.

FELLOWSHIP STIPENDS

SEC. 924. (a) The Commissioner shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(b) The Commissioner shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

(20 U.S.C. 1134g) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 307; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(b), 90 Stat. 2161, 2162.

FELLOWSHIP CONDITIONS

SEC. 925. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 924 only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

(b) The Commissioner is authorized to require reports containing such information in such form and to file at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

(20 U.S.C. 1134h) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 307, 308; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(b), 90 Stat. 2162.

PART C—PUBLIC SERVICE FELLOWSHIPS

AWARD OF PUBLIC SERVICE FELLOWSHIPS

SEC. 941. (a) During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1979, the Commissioner is authorized to award not to exceed five hundred fellowships in accordance with the provisions of this part for graduate or professional study for persons who plan to pursue a career in public service. Such fellowships shall be awarded for such periods as the Commissioner may determine, but not in excess of thirty-six months except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such a twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

(c) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipients for such period for stipend, travel, expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award.

(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

(20 U.S.C. 1134i) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 308; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(c)(1), 90 Stat. 2162, 2163.

ALLOCATION OF FELLOWSHIPS

SEC. 942. The Commissioner shall allocate fellowships under this part among institutions of higher education with programs approved under the provisions of this part for the use of individuals accepted into such programs, in such manner and according to such plan as will insofar as practicable—

(1) provide an equitable distribution of such fellowships throughout the United States;

(2) attract recent college graduates to pursue a career in public service;

(3) attract persons other than recent college graduates to pursue a career in public service; and

(4) provide additional training for individuals who by past activities, occupation, or training have demonstrated a commitment to a career in public service.

(20 U.S.C. 1134j) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 308; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(c)(2), 90 Stat. 2163.

APPROVAL OF PROGRAMS

SEC. 943. The Commissioner shall approve a graduate or professional program of an institution of higher education only upon application by the institution and only upon his findings—

(1) that such program has as a principal or significant objective the education of persons for the public service, or the education of persons in a profession or vocation for whose practitioners there is a significant continuing need in the public service as determined by the Commissioner after such consultation with other agencies as may be appropriate;

(2) that such program is in effect and of high quality, or can readily be put into effect and may reasonably be expected to be of high quality;

(3) that the application describes the relation of such programs to any program, activity, research, or development set forth by the applicant in an application, if any, submitted pursuant to section 901(a)(2); and

(4) that the application contains satisfactory assurance that (A) the institution will recommend to the Commissioner, for the award of fellowships under this part, for study in such program, only persons of superior promise who have demonstrated to the satisfaction of the institution a serious intent to enter or continue the public service upon completing the program, and (B) the institution will make reasonable continuing efforts to encourage recipients of fellowships under this part, enrolled in such programs, to enter or continue in the public service upon completing the program.

(20 U.S.C. 1134k) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 308, 309; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(c)(3), 90 Stat. 2163.

STIPENDS

SEC. 944. (a) The Commissioner shall pay to persons awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(b) The Commissioner shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

(20 U.S.C. 1134m) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 309; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(c)(4), 90 Stat. 2163.

FELLOWSHIP CONDITIONS

SEC. 945. (a) A person awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Commissioner by or pursuant to regulation.

(b) The Commissioner is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.

(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

(20 U.S.C. 1134m) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 309.

PART D—FELLOWSHIPS FOR OTHER PURPOSES

PROGRAM AUTHORIZED

SEC. 961. (a) It is the purpose of this part to provide fellowships—

(1) to assist graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, coal, oil shale, and uranium; and

(2) for persons of ability from disadvantaged backgrounds, as determined by the Commissioner, undertaking graduate or professional study.

The demonstration of financial need shall be determined in accordance with regulations prescribed by the Commissioner.

(b)(1) The Commissioner is authorized to award under the provisions of this part not to exceed five hundred fellowships for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1979. Appropriations made pursuant to section 965 for fellowships awarded under clause (2) of subsection (a) of this section may not exceed $1,000,000 in any fiscal year.

(2) In addition to the number of fellowships authorized to be awarded under paragraph (1), the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this part but vacated prior to the end of the period for which they were awarded except that each fellowship

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awarded under this paragraph shall be for such period of graduate or professional work or research not in excess of the remainder of the period for which the fellowship it replaces was awarded as the Commissioner may determine.

(c) Fellowships awarded under this part shall be for graduate and professional study leading to an advanced degree or research incident to the presentation of a doctoral dissertation. Such fellowship may be awarded for graduate and professional study and research at any institution of higher education or any other research center approved for such purpose by the Commissioner. Such fellowships shall be awarded for such periods as the Commissioner may determine but not in excess of thirty-six months, except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such a twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

(d) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipients academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipends, travel, expenses, or allowances for dependents or payments to institutions pursuant to the recipients fellowship award.

(20 U.S.C. 1134n) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 310; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(d)(1), (d)(2), (d)(3), 90 Stat. 2163.

AWARD OF FELLOWSHIPS

SEC. 962. Recipients of fellowships under this part shall be—

(1) persons who have been accepted by an institution of higher education for graduate study leading to an advanced degree or for a professional degree, or

(2) persons who have completed all course work required for granting of a doctoral degree or an equivalent degree (except such course work credited on the dissertation) and comprehensive examinations where appropriate, and whose doctoral dissertation (or other equivalent dissertation) proposal has been approved by appropriate officials of an institution of higher education.

(20 U.S.C. 1134c) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 310.

STIPENDS AND INSTITUTIONS OF HIGHER EDUCATION ALLOWANCES

SEC. 963. (a) The Commissioner shall pay to persons awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(b) The Commissioner shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study, such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipients instructional program shall be deducted from the payments to the institution under this subsection.

(20 U.S.C. 1134p) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 310; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(d)(4), 90 Stat. 2163, 2164.

FELLOWSHIP CONDITIONS

SEC. 964. (a) A person awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Commissioner by or pursuant to regulation.

(b) The Commissioner is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.

(c) No fellowship shall be awarded under this title for study at a school or department of divinity.

(20 U.S.C. 1134q) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 311.

APPROPRIATIONS AUTHORIZED

SEC. 965. There are authorized to be appropriated such sums as may be necessary for the purposes of this part.

(20 U.S.C. 1134r) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 311.

ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

SEC. 966. (a) The Commissioner is authorized prior to October 1, 1979, to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Commissioner, to undertake training for the legal profession.

(b) Grants made, and contracts entered into under, subsection (a) may cover, in accordance with regulations of the Commissioner, all or part of the cost of—

(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

(4) providing, for not more than three months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

(5) paying such stipends (including allowances for travel and for dependents) as the Commissioner may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Commissioner, and

(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in clauses (1) through (5).

(c) The activities authorized under this section may be carried out without regard to the requirements and limitations set forth in sections 962 and 963 of this part.

(20 U.S.C. 1134r-1) Enacted Aug. 24, 1974, P.L. 93-380, sec. 836, 88 Stat. 605; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(d)(5), 90 Stat. 2164.

Part E—Annual Fellowship Report

REPORT ON GRADUATE FELLOWSHIPS AND ASSISTANCE

Sec. 971. (a) Within one hundred and twenty days after the end of each fiscal year during which grants or fellowships are awarded under the provisions of this title the Commissioner shall prepare and submit to the Congress a report which—

(1) specifies the authority for and amount of each grant or fellowship so awarded;

(2) identifies the institutions which received such grants; and

(3) identifies the institutions which students receiving such fellowships attended.

(b) Each report required by this section shall contain an evaluation which—

(1) examines the extent to which grants or fellowships awarded under this title emphasized studies relating to—

(A) innovation in the field of graduate education;

(B) emerging fields of knowledge;

(C) areas of overriding national concern; or

(D) the education and employment of personnel in areas which the Commissioner finds to be of special need; and

(2) examines the extent to which grants and fellowships awarded under this title made substantial progress toward achieving the purpose of the various parts of this title under which they were awarded.

(20 U.S.C. 1134r-2) Enacted October 12, 1976, P.L. 94-482, Title I, Part H, sec. 171(e), 90 Stat. 2164.

Part F—General Assistance to Graduate Schools [1]

GENERAL ASSISTANCE GRANTS

Sec. 981. (a) Each institution of higher education shall, during the period beginning July 1, 1972 and ending June 30, 1975, be entitled to a general assistance grant (hereinafter in this section referred to as "grant") in accordance with the provisions of this section.

(b) The amount of a grant to which an institution shall be entitled for any fiscal year shall be $200 multiplied by the number of students in full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) at such institution who are pursuing a program of post-baccalaureate study.

(c) In order to be eligible for the grant to which it is entitled, an institution shall make application therefore to the Commissioner. Such application shall be submitted at such time or times and in such manner as the Commissioner shall prescribe by regulation. Such application shall be approved if the Commissioner determines that it—

(1) describes general educational goals and specific objectives of the graduate programs of the institution, and the amount of institutional income needed to meet such goals and objectives;

(2) provides satisfactory assurance that—

(A) the proceeds of the grant will be used for programs of the applicant consistent with such goals and objectives,

(B) current operating support from non-Federal sources for educationally related graduate programs of the applicant has not been reduced in anticipation of funds to be received under this section, and

(C) the applicant will make such reports as the Commissioner may require including a summary report describing how the grant was expended and an evaluation of its effectiveness in achieving such goals and objectives; and

(3) contains such provisions as the Commissioner may require by regulation in order to protect the financial interests of the United States.

The Commissioner may waive the requirement set forth in clause (2)(B) in the preceding sentence for any fiscal year if he determines, in accordance with criteria prescribed by regulation, that such waiver would promote the purposes of this section.

(d)(1) The Commissioner shall pay to each applicant the amount for which it is eligible under this section.

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[1] Sec. 1001(d) of P.L. 92-318 provides as follows:

"(d) The total of the payments made under subpart 5 of part A of title IV, of the Higher Education Act of 1965 (except section 420) and under part F of title IX of such Act may not exceed $1,000,000,000 during any fiscal year."

(2) If, during any period, the funds available for making payments pursuant to paragraph (1) are insufficient to satisfy fully the amounts for which all institutions are eligible under this section, the amounts for which all applicants are eligible shall be ratably reduced.

(e) None of the proceeds from a grant may be used to support a school or department of divinity or for religious worship or sectarian instruction.

(f) The Commissioner shall report to Congress not later than 120 days after the end of each fiscal year regarding the effectiveness of assistance under this section in achieving the goals and objectives of institutions of higher education and in encouraging diversity and autonomy among such institutions of higher education. The Commissioner, in such report, shall include such recommendations as may be appropriate regarding the continuation, modification, or extension of assistance under this section.

(20 U.S.C. 1134s) Enacted June 23, 1972, P.L. 92-318, sec. 1001(b), 86 Stat. 380.

TITLE X—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES[1]

PART A—STATEWIDE PLANS[2]

SEC. 1001. (a) Each State Commission (established or designated under section 1202) of each State which desires to receive assistance under this part[3] shall develop a statewide plan for the expansion or improvement of postsecondary education programs in community colleges or both. Such plan shall among other things—

(1) designate areas, if any, of the State in which residents do not have access to at least two years of tuition-free or low-tuition postsecondary education within reasonable distance;

(2) set forth a comprehensive statewide plan for the establishment, or expansion, and improvement of community colleges, or both, which would achieve the goal of making available to all residents of the State an opportunity to attend a community college (as defined in section 1018);

(3) establish priorities for the use of Federal and non-Federal financial and other resources which would be necessary to achieve the goal set forth in clause (2);

(4) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (3), for community colleges;

(5) set forth a statement analyzing the duplications of postsecondary educational programs and make recommendations for the coordination of such programs in order to eliminate unnecessary or excessive duplications; and

(6) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (2), including recommendations for the modification of State plans for federally assisted vocational education, com-

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[1] Section 176(a)(1) and Section 176(d) of Part I of Title I of P.L. 94-482 amend the heading of Title X, effective September 30, 1977.

[2] Section 176(a)(2) and Section 176(d) of Part I of Title I of P.L. 94-482 amend the heading of Part A of Title X, effective September 30, 1977.

[3] Effective September 30, 1977. (Section 176(d) of Part I of Title I of P.L. 94-482, 90 Stat. 2165.)

munity services, and academic facilities as they may affect community colleges.

In carrying out its responsibilities under this subsection, each State Commission shall establish an advisory council on community colleges which shall—

(A) be composed of—

(i) a substantial number of persons in the State (including representatives of State and local agencies) having responsibility for the operation of community colleges;

(ii) representatives of State agencies having responsiblity for or an interest in postsecondary education; and

(iii) the general public;

(B) have responsibility for assisting and making recommendations to the State Commission in developing the statewide plan required under this section;

(C) conduct such hearings as the State Commission may deem advisable; and

(D) pursuant to requirements established by the State Commission, provide each State and local agency within the State responsible for postsecondary education an opportunity to review and make recommendations with respect to such plan.

(b)(1) There are authorized to be appropriated $15,700,000 for each of the fiscal years ending prior to October 1, 1979, to carry out the provisions of this section.

(2) Sums appropriated pursuant to paragraph (1) shall be allotted by the Commissioner equally among the States, except that the amount allotted to Guam, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Virgin Islands shall not exceed $100,000 each. Such sums shall remain available until expended.

(c) Each plan developed and adopted pursuant to subsection (a) shall be submitted to the Commissioner for his approval. The Commissioner shall not disapprove any plan unless he determines, after reasonable notice and opportunity for hearing and comment, that it is inconsistent with the requirements set forth in this section.

(20 U.S.C. 1135) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 312, 313, amended October 12, 1976, P.L. 94-482, Title I, Part I, sec. 176(a)(3), (a)(4), (a)(5), 90 Stat. 2165; amended Nov. 15, 1977, P.L. 95-180, 91 Stat. 1372.

PART B[1]—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

PROGRAM AUTHORIZATION

SEC. 1011. (a) In order to encourage and assist those States and localities which so desire in establishing or expanding community colleges, or both, the Commissioner shall carry out a program as provided in this part[2] for making grants to community colleges in order to improve educational opportunities available through community colleges in such States.

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[1] Sections 176(b)(1) and 176(d) of Part I of Title I of P.L. 94-482 create Part B, effective September 30, 1977.

[2] Effective September 30, 1977. (Section 176(d) of Part I of Title I of P.L. 94-482, 90 Stat. 2165.)

(b) For the purpose of carrying out this part, there are authorized to be appropriated $150,000,000 for each of the fiscal years ending prior to October 1, 1979.

(20 U.S.C. 1135a) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 313, amended October 12, 1976, P.L. 94-482, Title I, Part I, sec. 176(b)(2)(A), (b)(2)(B), 90 Stat. 2165.

APPORTIONMENTS

SEC. 1012. (a) From the sums appropriated pursuant to section 1011(b) for each fiscal year the Commissioner shall apportion not more that 5 per centum thereof among Puerto Rico, Guam, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs. From the remainder of such sums the Commissioner shall apportion to each State an amount which bears the same ratio to such remainder as the population aged eighteen and over in such State bears to the total of such population in all States. For the purpose of the second sentence of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(b) The portion of any State's apportionment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such apportionment is available, for carrying out the purposes of this part[3] shall be available for reapportionment from time to time, on such dates during such period as the Commissioner shall fix, to other States in proportion to the original apportionments to such States under subsection (a) for such year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out such portion of its State plan referred to in section 1001(a)(2) approved under this part, and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts are not so reduced. Any amount reapportioned to a State under this subsection during a year shall be deemed part of its apportionment under subsection (a) for such year.

(20 U.S.C. 1135(a)-1) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 313, 314, amended October 12, 1976, P.L. 94-482, Title I, Part I, sec. 176(b)(3), 90 Stat. 2165; amended Nov. 15, 1977, P.L. 95-180, 91 Stat. 1372.

ESTABLISHMENT GRANTS

SEC. 1013. (a) The Commissioner is authorized to make grants to new community colleges to assist them in planning, developing, establishing, and conducting initial operations of new community colleges in areas of the States in which there are no existing community colleges or in which existing community colleges cannot adequately provide postsecondary educational opportunities for all of the residents thereof who desire and can benefit from postsecondary education.

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[3] Effective September 30, 1977. (Section 176(d) of Part I of Title I of P.L. 94-482, 90 Stat. 2165.)

(b) For the purposes of subsection (a), the term "new community college" means a board of trustees or other governing board (or its equivalent) which is established by, or pursuant to, the law of a State, or local government, for the purpose of establishing a community college, as defined in section 1018, or any existing board so established which has the authority to create, as in the process of establishing, a new community college.

(20 U.S.C. 1135a-2) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 314.

EXPANSION GRANTS

Sec. 1014. (a) The Commissioner is authorized to make grants, consistent with the terms of the appropriate State plan approved under section 1001, to existing community colleges to enable them to carry out the provisions of subsections (b) and (c) of this section. Of the funds appropriated for subpart 2 of this part, the Commissioner shall make grants pursuant to subsection (b), before making grants under any other subsection or section of this subpart, until such time as he determines all approved requests relating to subsection (b) have been funded.

(b) The Commissioner is authorized to make grants to eligible institutions to assist them in modifying their educational programs and instructional delivery systems to provide educational programs especially suited to those persons whose educational needs have been inadequately served, especially those among the handicapped, older persons, persons who can attend only part-time, and persons who otherwise would be unlikely to continue their education beyond the high school. Such programs may include, but are not limited to, methods designed to eliminate such barriers to student access as inflexible course schedules, location of instructional programs, and inadequate transportation.

(c) The Commission is also authorized to make grants to eligible institutions to assist them in expanding their enrollment capacity or in establishing new educational sites as documented in the State plan. Any grants related to facilities may only be made to institutions which have provided the Commissioner with such assurances as he requires that they have first explored the possibilities of using existing facilities on the campus of the applying institution, existing facilities in the community which are suitable and available for educational programs without unreasonable cost to the institution, and explore the willingness of other institutions within a reasonable commuting distance to provide educational programs, or space or other components of an educational delivery system, through contract or other agreement with the institution.

(20 U.S.C. 1135a-3) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 314; amended October 12, 1976, P.L. 94-482, Title I, Part I, sec. 177, 90 Stat. 2165, 2166.

LEASE OF FACILITIES

Sec. 1015. (a) The Commissioner is authorized to make grants to community colleges to enable them to lease facilities, for a period of not to exceed five years, in connection with activities carried out by them under section 1013 or section 1014.

(b) The Federal share of carrying out a project through a grant under this section shall not exceed—

(1) 70 per centum of the cost of such project for the first year of assistance under this section;

(2) 50 per centum thereof for the second such year;

(3) 30 per centum thereof for the third such year; and

(4) 10 per centum thereof for the fourth such year.

(20 U.S.C. 1135a-4) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 314, 315.

APPLICATIONS; FEDERAL SHARE

SEC. 1016. (a)(1) Grants under sections 1013 and 1014 may be made only upon application to the Commissioner. Applications for assistance under such sections shall be submitted at such time, in such manner and form, and containing such information as the Commissioner shall require by regulation.

(2) No application submitted pursuant to paragraph (1) shall be approved unless the Commissioner determines that it is consistent with the plan approved by him under section 1001 from the State in which the applicant is located.

(b)(1) No application for assistance under section 1013 or 1014 shall be approved for a period of assistance in excess of four years.

(2) The Federal share of the cost of carrying out the project for which assistance is sought in an application submitted pursuant to this section shall not exceed—

(A) 40 per centum of such cost for the first year of assistance;

(B) 30 per centum thereof for the second year of assistance;

(C) 20 per centum thereof for the third year of assistance; and

(D) 10 per centum thereof for the fourth year of assistance.

(c)(1) Funds appropriated pursuant to section 1011 and granted under section 1013 or 1014 shall, subject paragraph (2), be available for those activities the Commissioner determines to be necessary to carry out the purposes of such sections.

(2) Such funds may be used (A) to remodel or renovate existing facilities, or (B) to equip new and existing facilities, but such funds may not be used for the construction of new facilities or the acquisition of exisiting facilities.

(20 U.S.C. 1135a-5) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 315.

PAYMENTS

SEC. 1017. From the amount apportioned to each State pursuant to section 1012, the Commissioner shall pay to each applicant from that State which has had an application for assistance approved under this subpart the Federal share of the amount expended under such application.

(20 U.SC. 1135a-6) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 315.

DEFINITIONS

SEC. 1018. As used in this title, the term "community college" means any junior college, postsecondary vocational school, technical institute, or any other educational institution (which may include a four-year institution of higher education or a branch thereof) in any State which—

(1) is legally authorized within such State to provide a program of education beyond secondary education;

(2) admits as regular students persons who are high school graduates or the equivalent, or beyond the age of compulsory school attendance;

(3) provides a postsecondary education program leading to an associate degree or acceptable for credit toward a bachelor's degree;

(4) is a public or other nonprofit institution;

(5) is accredited as an institution by a nationally recognized accrediting agency or association, or if not so accredited—

(A) is an institution that has obtained recognized preaccreditation status from a nationally recognized accrediting body, or

(B) is an institution whose credits are acceptable on transfer, by not less than three accredited institutions, for credit on the same basis as if transferred from an institution so accredited.

(20 U.S.C. 1135a-7) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 315, 316 amended October 12, 1976, P.L. 94-482, Title I, Part I, sec. 178, 90 Stat. 2166.

PART B[1]—OCCUPATIONAL EDUCATION PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 1051. For the purposes of carrying out this part, there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, $250,000,00 for the fiscal year ending June 30, 1974, and $500,000,000 for the fiscal year ending June 30, 1975. Eighty per centum of the funds appropriated for the first year for which funds are appropriated under this secton shall be available for the purposes of establishing administrative arrangements under section 1055, making planning grants under section 1056, and for initiating programs under section 1057 in that States which have complied with the planning requirements of section 1056; and 20 per centum shall be available only for technical assistance under section 1059(a). From the amount appropriated for each succeeding fiscal year 15 per centum shall be reserved to the Commissioner for grants and contracts pursuant to section 1059(b).

(20 U.S.C. 1135b) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 316.

ALLOTMENTS AND REALLOTMENTS AMONG STATES

SEC. 1052. (a) From the sums appropriated under section 1051 for the first year for which funds are appropriated under that section

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[1] Part B repealed, effective September 30, 1977, by subsections 176 (c) and (d) of Part I of Title I of P.L. 94-482, 90 Stat. 2167

(other than funds available only for technical assistance), the Commissioner shall first allot such sums as they may require (but not to exceed $50,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount alloted to each State shall not be less than $100,000.

(b) From the sums appropriated for any suceeding fiscal year under such section (other than funds reserved to the Commissioner), the Commissioner shall first allot such sums as they may require (but not to exceed $500,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $500,000.

(c) The portion of any State's allotment under subsection (a) or (b) for a fiscal year which the Commissioner determines will not be required, for the period of such allotment is available, for carrying out the purposes of this part shall be available for reallotment from time to time, on such date or dates during such periods as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) or (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such States need and will be able to use for such period, and the total of such reductions shall be similarly realloted among the States whose proportionate amounts are not so reduced. Any amount realloted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) or (b) for such year.

(20 U.S.C. 1135b-1) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 316, 317.

FEDERAL ADMINISTRATON

SEC. 1053. The Secretary shall develop and carry out a program designed to promote and encourage occupational education, which program shall—

(1) provide for the administration by the Commissioner of Education of grants to the States authorized by this part;

(2) assure that manpower needs in subprofessional occupations in education, health, rehabilitation, and community and welfare services are adequately considered in the development of programs under this part;

(3) promote and encourage the coordination of programs developed under this part with those supported under part A of this title, the Vocational Education Act of 1963, the Manpower Development and Training Act of 1962, title I of the Economic Opportunity Act of 1964, the Public Health Service Act, and related activities administered by various departments and agencies of the Federal Government; and

(4) provide for the continuous assessment of needs in occupational education and for the continuous evaluation of programs supported under the authority of this part and of related provisions of law.

(20 U.S.C. 1135b-2) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 317.

GENERAL RESPONSIBILITIES OF COMMISSIONER OF EDUCATION

SEC. 1054. The Commissioner shall, in addition to the specific responsibilities imposed by this part, develop and carry out a program of occupational education that will—

(1) coordinate all programs administered by the Commissioner which specifically relate to the provisions of this part so as to provide the maximum practicable support for the objectives in this part;

(2) promote and encourage occupational preparation, counseling and guidance, and job placement or placement in postsecondary occupational education programs as a responsibility of elementary and secondary schools;

(3) utilize research and demonstration programs administered by him to assist in the development of new and improved instructional methods and technology for occupational education and in the design and testing of models of schools or school systems which place occupational education on an equal footing with academic education;

(4) assure that the Education Professions Development Act and similiar programs of general application will be so administered as to provide a degree of support for vocational, technical, and occupational education commensurate with national needs and more nearly representative of the relative size of the population to be served; and

(5) develop and disseminate accurate information on the status of occupational education in all parts of the Nation, at all levels of education, and in all types of institutions, together with information on occupational opportunities available to persons of all ages.

(20 U.S.C. 1135b-3) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 317.

STATE ADMINISTRATION

SEC. 1055. (a) Any State desiring to participate in the program authorized by this part shall in accordance with State law establish a State agency or designate an existing State agency which will have sole responsibility for fiscal management and administration of the program, in accordance with the plan approved under this part, and which adopts administrative arrangements which will provide assurances satisfactory to the Commissioner that—

(1) the State Advisory Council on Vocational Education will be charged with the same responsibilities with respect to the program authorized by this part as it has with respect to programs authorized under the Vocational Education Act of 1963;

(2) there is adequate provision for individual institutions or groups of institutions and for local educational agencies to appeal and obtain a hearing from the State administrative

agency with respect to policies, procedures, programs, or allocation of resources under this part with which such institution or institutions or such agencies disagree.

(b) The Commissioner shall approve any administrative arrangements which meet the requirements of subsection (a), and shall not finally disapprove any such arrangements without affording the State administrative agency a reasonable opportunity for a hearing. Upon the final disapproval of any arrangement, the provisions for judicial review set forth in section 1058(b) shall be applicable.

(20 U.S.C. 1135b-4) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 318.

PLANNING GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1056. (a) Upon the application of a State Commission (established or designated pursuant to section 1202), the Commissioner shall make available to the State the amount of its allotment under section 1052 for the following purposes—

(1) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by this part; and

(2) to enable the State Commission to initiate and conduct a comprehensive program of planning for the establishment of the program authorized by this part.

(b)(1) Planning activities initiated under clause (2) of subsection (a) shall include—

(A) an assessment of the existing capabilities and facilities for the provision of postsecondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs assisted under this part, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State colleges or universities and public and private colleges and universities;

(C) the development of an administrative procedure which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this part; and

(D) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance and placement either in a job or in postsecondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(E) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

(2) Planning activities carried on by the State Commission under this section shall involve the active participation of—

(A) the State board for vocational education;

(B) the State agency having responsibility for community and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsible for administering public elementary and secondary education;

(E) the State agency responsible for programs of adult basic education;

(F) representatives of all types of institutions in the State which are conducting or which have the capability and desire to conduct programs of postsecondary occupational education;

(G) representatives of private, nonprofit elementary and secondary schools;

(H) the State employment security agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;

(I) the State agency responsible for economic and industrial development;

(J) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and

(K) representatives of business, industry, organized labor, agriculture, and the general public.

(c) The Commissioner shall not approve any application for a grant under section 1057 of this part unless he is reasonably satisfied that the planning described in this section (whether or not assisted by a grant under this section) has been carried out.

(20 U.S.C. 1135b-5) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 318, 319.

PROGRAM GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1057. (a) From the allotments available to the States under section 1052(b) (upon application by the State administrative agency designated or established under section 1055), the Commissioner shall make grants to any State which has satisfied the requirements of section 1058. Such grants may be used for the following purposes—

(1) assist the State administrative agency designated or established under section 1055;

(2) the design, establishment, and conduct of programs of postsecondary occupational education (or the expansion and improvement of existing programs) as defined by section 1060 of this part;

(3) the design, establishment, and conduct of programs to carry out the long-range strategy developed pursuant to section 1056(b)(1)(D) for infusing into elementary and secondary education occupational preparation, which shall include methods of involving secondary schools in occupational placement and methods of providing followup services and career counseling and guidance for persons of all ages as a regular function of the educational system;

(4) the design of high-quality instructional programs to meet the needs for postsecondary occupational education and the development of an order of priorities for placing these programs in operation;

(5) special training and preparation of persons to equip them to teach, administer, or otherwise assist in carrying out the program authorized under this part (such as programs to prepare journeymen in the skilled trades or occupations for teaching positions); and

(6) the leasing, renting, or remodeling of facilities required to carry out the program authorized by this part.

(b) Programs authorized by this part may be carried out through contractual arrangements with private organizations and institutions organized for profit where such arrangments can make a contribution to achieving the purposes of this part by providing substantially equivalent education, training, or services more readily or more economically, or by preventing needless duplication of expensive physical plant and equipment, or by providing needed education or training of the types authorized by this part which would not otherwise be available.

(20 U.S.C. 1135b-6) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 319, 320.

ASSURANCES; JUDICIAL REVIEW

SEC. 1058. (a) Before making any program grant under this part the Commissioner shall receive from the State Commission an assurance satisfactory to him that the planning requirements of section 1056 have been met and from the State administrative agency assurances satisfactory to him that—

(1) the State Advisory Council on Vocational Education has had a reasonable opportunity to review and make recommendations concerning the design of the programs for which the grant is requested;

(2) Federal funds made available under this part will result in improved occupational education programs, and in no case supplant State, local, or private funds;

(3) adequate provision has been made by such agency for programs described in section 1057(a)(3);

(4) provision had been made for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under this part;

(5) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served by an elementary or secondary school program funded under this

part, provision has been made for the effective participation of such students; and

(6) reports will be made in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this part.

(b)(1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State administrative agency, finds that any of the assurances required by subsection (a) are unsatisfactory, or that in the administration of the program there is a failure to comply with such assurances or with other requirements of the part, the Commissioner shall notify the administrative agency that no futher payments will be made to the State under this part until he is satisfied there has been or will be compliance with the requirements of the part.

(2) A State administrative agency which is dissatisfied with a final action of the Commissioner under this section or under section 1055 (with respect to approval of State administration) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 or title 28, United States Code. Upon the filing of such petition, the Court shall have jurisdiction to affirm the action of the Commissioner or set it aside, in whole or in part, temporarily or permanently but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissoner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

(20 U.S.C. 1135b-7) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 320, 321.

TECHNICAL ASSISTANCE; MODEL PROGRAMS

SEC. 1059. (a) The Commissioner shall make available (to the extent practicable) technical assistance to the States in planning, designing, and carrying out the program authorized by this part upon the request of the appropriate State agency designated or established pursuant to section 1055 or section 1202 and the Commissioner shall take affirmative steps to acquaint all interested organizations, agencies, and institutions with the provision of this part and to enlist broad public understanding of its purposes.

(b) From the sums reserved to the Commissioner under section 1051, he shall by grant or contract provide assistance—

(1) for the establishment and conduct of model or demonstration programs which in his judgment will promote the achievement of one or more purposes of this part and which might otherwise not be carried out (or not be carried out soon enough or in such a way as to have the desirable impact upon the purposes of the part);

(2) as an incentive or supplemental grant to any State administrative agency which makes a proposal for advancing the purposes of this part which he feels holds special promise for meeting occupational education needs of particular groups or classes of persons who are disadvantaged or who have special needs, when such proposal could not reasonably be expected to be carried out under the regular State program; and

(3) for particular programs or projects eligible for support under this part which he believes have a special potential for helping to find solutions to problems on a regional or national basis.

(c) In providing support under subsection (b) the Commissioner may as appropriate make grants to or contracts with public or private agencies, organizations, and institutions, but he shall give first preference to applications for projects or programs which are administered by or approved by State administrative agencies, and he shall in no case make a grant or contract within any State without first having afforded the State administrative agency reasonable notice and opportunity for comment and for making recommendations.

(20 U.S.C. 1135b-8) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 321, 322.

DEFINITIONS

SEC. 1060. For the purposes of this part—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and (except for the purposes of subsections (a) and (b) of section 1052) American Samoa and the Trust Territory of the Pacific Islands.

(2) The term "postsecondary occupational education" means education, training, or retraining (and including guidance, counseling, and placement services) for persons sixteen years of age or older who have graduated from or left elementary or secondary school, conducted by an institution legally authorized to provide postsecondary education within a State, which is designed to prepare individuals for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations (including new and emerging occupations), or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regula-

tion, to be generally considered professional or which require a baccalaureate or advanced degree.

(20 U.S.C. 1135b–9) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 322.

PART C—ESTABLISHMENT OF AGENCIES

ESTABLISHMENT OF BUREAU OF OCCUPATIONAL AND ADULT EDUCATION

SEC. 1071. (a) There is hereby established in the United States Office of Education a Bureau of Occupational and Adult Education hereinafter referred to as the Bureau, which shall be responsible for the administration of this title, the Vocational Education Act of 1963, including parts C and I thereof, the Adult Education Act, functions of the Office of Education relating to manpower training and development, functions of the Office relating to vocational, technical, and occupational training in community and junior colleges, and any other Act vesting authority in the Commissioner for vocational, occupational, adult and continuing education and for those portions of any legislation for career education which are relevant to the purposes of other Acts administered by the Bureau.

(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner, and who shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

(2) Additional positions are created for, and shall be assigned to, the Bureau as follows:[1]

(A) Three positions to be placed in grade 17 of such General Schedule, one of which shall be filled by a person with broad experience in the field of junior and community college education,

(B) Seven positions to be placed in grade 16 of such General Schedule, at least two of which shall be filled by persons with broad experience in the field of postsecondary-occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling, and

(C) Three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

(20 U.S.C. 1135c) Enacted June 23, 1972, P.L. 92–218, sec. 186(a)(1), 86 Stat. 322, 323.

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[1] Note: Sec. 186(a)(2) of P.L. 92–318 provides as follows:

"(2) The positions created by section 1071 and section 1072 of the Higher Education Act of 1965 shall be in addition to the number of positions placed in the appropriate grades under section 5108, title 5, United States Code."

COMMUNITY COLLEGE UNIT

SEC. 1072. (a) There is established, in the Office of Education, a Community College Unit (in this section referred to as the "Unit") which shall have the responsibility for coordinating all programs administered by the Commissioner which affect, or can benefit, community colleges, including such programs assisted under this Act, and the Vocational Educational Act of 1963.

(b) The Unit shall be headed by a Director who shall be placed in grade 17 of the General Schedule under section 5332 of title 5, United States Code.

(20 U.S.C. 1135c-1) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 323.

TITLE XI—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

PROGRAM AUTHORIZATION

SEC. 1101. (a) The Commissioner is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the cost of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, with preference being given to programs providing such experience, to the extent practicable, in the preparation and trial of cases.

(b) Such costs may include necessary expenditures incurred for—

(1) planning;

(2) training of faculty members and salary for additional faculty members;

(3) travel and per diem for faculty and students;

(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

(5) equipment and library resources; and

(6) such other items as are allowed pursuant to regulations issued by the Commissioner.

(c) No law school may receive more than $75,000 in any fiscal year pursuant to this title.

(d) For the purpose of this title the term "accredited law school" means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose.

(20 U.S.C. 1136) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 281, 82 Stat. 1048; amended June 23, 1972, P.L. 92-318, sec. 191, 86 Stat. 323.

APPLICATIONS

SEC. 1102. (a) A grant or contract authorized by this title may be made by the Commissioner upon application which—

(1) is made at such time or times and contains such information as he may prescribe;

(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

(3) provides for making such reports, in such form and containing such information as the Commissioner may require to carry out his functions under this title, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall allocate grants or contracts under this title in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this title.

(20 U.S.C. 1136a) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 281, 82 Stat. 1048-1049; amended June 23, 1972, P.L. 92-318, sec. 191, 86 Stat. 323.

AUTHORIZATION OF APPROPRIATIONS

Sec. 1103. There are authorized to be appropriated $7,500,000 for each of the succeeding fiscal years ending prior to October 1, 1979 to carry out the purposes of this title (and planning and related activities in the initial fiscal year for such purposes).

(20 U.S.C. 1136b) Enacted Oct. 16, 1968, P.L. 90-575, Title II, Sec. 281, 82 Stat. 1049; amended June 23, 1972, P.L. 92-318, sec. 191, 86 Stat. 323; amended October 12, 1976, P.L. 94-482, Title I, Part H, sec. 172, 90 Stat. 2164.

TITLE XII—GENERAL PROVISIONS

DEFINITIONS

Sec. 1201. As used in this Act—

(a) The term "institution of higher education"[1] means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (1), (2), (4), and (5). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.[2] For purposes of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

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[1] Section 410 of title IV of P.L. 94-482 (Enacted October 12, 1976), 90 Stat. 2233, 2234 adds the following amendment to the Act of November 2, 1921 (25 U.S.C. 13): "Notwithstanding any other provision of this Act or any other law, postsecondary schools administered by the Secretary of the Interior for Indians, and which meet the definition of an 'institution of higher education' under section 1201 of the Higher Education Act of 1965, shall be eligible to participate in and receive appropriated funds under any program authorized by the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or post-secondary educational institutions."

See page 172 for full text of the Act of November 2, 1921 (25 U.S.C. 13).

(b) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.[3]

(c) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) The term "secondary school" means a school which provides secondary education as determined under State law except that it does not include any education provided beyond grade 12.

(e) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(f) The term "Commissioner" means the Commissioner of Education.

(g) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

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[2] This sentence was added by section 181(a) of P.L. 94-482, as amended by section 1(b)(7) of P.L. 95-43. Section 181(b) of P.L. 94-482, as added by Section 1(b)(7) of P.L. 95-43, reads as follows:

"(b) Neither the amendment made by subsection (a) of this section nor the amendment made to section 435(b)(1) of the Act (by section 127(a) of this Act) shall be construed to authorize terminating the eligibility of an institution which was deemed to be an institution of higher education for purposes of sections 435(b)(1) and 1201(a) on the date of enactment of this Act. The preceding sentence of this section shall not be construed to impair the authority of the Commissioner to limit, suspend, or terminate such eligibility for the reasons and as provided by section 497 of the Act."

[3] State status for Higher Education Act purposes extended to Northern Mariana Islands and Trust Territory of the Pacific Islands by P.L. 95-180, November 15, 1977, 91 Stat. 1372. Section d of P.L. 95-180 prevents the invalidation of "any payments or other benefits provided under the Higher Education Act of 1965" to the Trust Territory of the Pacific Islands or the government of the Northern Mariana Islands prior to November 15, 1977 by any other provision of law.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsibile for the State supervision of public elementary and secondary school, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(i) The term "elementary school" means a school which provides elementary education including education below grade 1, as determined under State law.

(j) The term "combination of institutions of higher education" means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(k) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Commissioner, children who have outstanding intellectual ability or creative talent.

(l) The term "school or department of divinity" means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects.

(20 U.S.C. 1141) Enacted Nov. 8, 1965, P.L. 89-329, Title VIII, sec. 801, 78 Stat. 1269; amended Oct. 16, 1968, P.L. 90-575, Title II, secs. 251, 293, and 294, 82 Stat. 1042 and 1050-51; amended April 13, 1970, P.L. 91-230, sec. 806(b), 84 Stat. 192; subsection (l) added June 23, 1972, P.L. 92-318, sec. 131(d)(1), 86 Stat. 260; amended October 12, 1976, P.L. 94-482, Title I, Part J, sec. 181, 90 Stat. 2167.

STATE POSTSECONDARY EDUCATION COMMISSIONS

Sec. 1202. (a) Any State which desires to receive assistance under section 1203 or title X shall establish a State Commission or designate an existing State agency or State Commission (to be known as the State Commission) which is broadly and equitably representative of the general public and public and private nonprofit and proprietary institutions of postsecondary education in the State including community colleges (as defined in title X), junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, four-year institutions of higher education and branches thereof.

(b) Such State Commission may establish committees or task forces, not necessarily consisting of Commission members, and utilize existing agencies or organizations, to make studies, conduct surveys, submit recommendations, or otherwise contribute to the best available expertise from the institutions, interest groups, and segments of the society most concerned with a particular aspect of the Commission's work.

(c)(1) At any time after July 1, 1973, a State may designate the State Commission established under subsection (a) as the State agency or institution required under section 105, 603, or 704. In such a case, the State Commission established under this section shall be deemed to meet the requirements of such sections for State agencies or institutions.

(2) If a State makes a designation referred to in paragraph (1)—

(A) the Commissioner shall pay the State Commission the amount necessary for the proper and efficient administration of the Commission of the functions transferred to it by reason of the designation; and

(B) the State Commission shall be considered the successor agency to the State agency or institution with respect to which the designation is made, and action theretofore taken by the State agency or institution shall continue to be effective until changed by the State Commission.

(d) Any State which desires to receive assistance under title VI or under title VII but which does not desire, after June 30, 1973, to place the functions of State Commissions under such titles under the authority of the State Commission established pursuant to subsection (a) shall establish for the purposes of such titles a State Commission which is broadly representative of the public and of institutions of higher education (including junior colleges and technical institutes) in the State. Such State Commissions shall have the sole responsibility for the administration of State plans under such titles VI and VII within such State.

(20 U.S.C. 1142a) Enacted June 23, 1972, P.L. 92-318, sec. 196, 86 Stat. 324.

COMPREHENSIVE STATEWIDE PLANNING

Sec. 1203. (a) The Commissioner is authorized to make grants to any State Commission established pursuant to section 1202(a) to enable it to expand the scope of the studies and planning required in title X through comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desire, and who can benefit from, postsecondary education may have an oppportunity to do so.

(b) The Commissioner shall make technical assistance available to State Commissions, if so requested, to assist them in achieving the purposes of this section.

(c) The Commissioner is authorized to make grants to State commissions established pursuant to section 1202(a), and to interstate compact postsecondary educational agencies approved by the Commissioner for the purpose of this subsection, applying jointly for the purpose of this subsection, to enable the participating commissions to plan, develop, and carry out interstate cooperative postsecondary education projects designed to increase the accessibility of postsecondary educational opportunities for the residents of the participating States and to assist such States to carry out postsecondary education programs in a more effective and economical manner.

(d)(1) There are authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1979, to carry out the provisions of this section other than subsection (c) of this section.

(2) There are authorized to be appropriated $2,000,000 for each fiscal year ending prior to October 1, 1979, to carry out the provisions of subsection (c) of this section.

(20 U.S.C. 1142b) Enacted June 23, 1972, P.L. 92-318, sec. 196, 86 Stat. 325; amended October 12, 1976, P.L. 94-482, title I part I, subsections 179 (a) and (b), 90 Stat. 2166.

ADVISORY COUNCIL ON GRADUATE EDUCATION

SEC. 1205. (a) There is hereby established in the Office of Education an Advisory Council on Graduate Education (hereafter in this section referred to as the "Council"), consisting of the Commissioner, who shall be Chairman, of one representative each from the Office of Science and Technology in the Executive Office of the President, the National Science Foundation, and the National Foundation on the Arts and Humanities, and of members appointed by the Commissioner without regard to the civil service or classification laws. Such appointed members shall be selected from among leading authorites in the field of education, except that at least one of them shall be a graduate student.

(b) The Council shall advise the Commissioner on matters of general policy arising in the administration by the Commissioner of programs relating to graduate education.

(20 U.S.C. 1145) Enacted Oct. 16, 1968, P.L. 90-575, title II, sec. 291, 82 Stat. 1049-1050; subsections (c) and (d) repealed Apr. 13, 1970, P.L. 91-230, sec. 401(h) and superseded by part C of title IV of P.L. 90-247, as amended.

COST OF EDUCATION DATA

SEC. 1206. The Commisisoner may require as a condition of eligibility of any institution of higher education—

(1) for institutional aid, at the earliest practical date, or

(2) for student aid, after June 30, 1973,

that such institution supply such cost-of-education data as may be in the possession of such institution.

(20 U.S.C. 1145a) Enacted June 23, 1[illegible] .L. 9[illegible]-318, sec. 197, 86 Stat. 325.

ANTIDISCRIMINATION

SEC. 1207. Institutions of higher education receiving Federal financial assistance may not use such financial assistance whether directly or indirectly to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except no institution shall be barred from performing such study, project, or contract, except no institution shall be barred from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or have its curriculum restricted on the subject of discrimination, against any such person.

(20 U.S.C. 1145b) Enacted October 12, 1976, P.L. 94-482, Title I, Part J, sec. 182, 90 Stat. 2167.

FUNDING REQUIREMENT

Sec. 1208. (a) Except as provided in subsection (b)—

(1) if the sum of the appropriations available for carrying out subparts 1 and 2 of part A, and parts C and E, of title IV in fiscal year 1978 equals or exceeds an amount equal to the greater of—

(A) $2,800,000,000; or

(B) the sum of the appropriations available for carrying out subparts 1 and 2 of Part A, and parts C and E, of title IV in fiscal year 1977,

no payments, awards, or grants may be made from the portion of the funds appropriated therefor in excess of such amount unless the sum of the appropriations available for carrying out title I, part C of title VII, and title X equals or exceeds 50 per centum of such amount; and

(2) if the sum of the appropriations available for carryng out subparts 1 and 2 of part A, and parts C and E, of title IV in fiscal year 1979 equals or exceeds an amount equal to the greater of—

(A) $3,100,000,000; or

(B) the sum of the appropriations available for carrying out subparts 1 and 2 of part A, and parts C and E, of title IV in fiscal year 1978,

no payments, awards, or grants may be made from the portion of the funds appropriated therefor in excess of such amount unless the sum of the appropriations available for carrying out title I, part C of title VII, and title X equals or exceeds 50 per centum of such amount.

(b) The provisions of subsection (a) shall not be effective for any fiscal year in which the sum of the appropriations available for carrying out title I, part C of title VII, and title X equals or exceeds $215,000,000.

(c) The provisions of section 414 of the General Education Provison Act shall not apply to the provisions of this section.

(20 U.S.C. 1145c) Enacted October 12, 1976, P.L. 94-482, Title I, Part J, sec. 183, 90 Stat. 2167.

INDIAN HIGHER EDUCATION PROGRAMS

Navajo Community College Act[1]

(P.L. 92-189)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Navajo Community College Act".

PURPOSE

SEC. 2. It is the purpose of this Act to assist the Navajo Tribe of Indians in providing education to the members of the tribe and other qualified applicants through a community college, established by that tribe, known as the Navajo Community College.

GRANTS

SEC. 3. The Secretary of Interior is authorized to make grants to the Navajo Tribe of Indians to assist the tribe in the construction, maintenance, and operation of the Navajo Community College. Such college shall be designed and operated by the Navajo Tribe to insure that the Navajo Indians and other qualified applicants have educational opportunities which are suited to their unique needs and interests.

STUDY OF FACILITIES NEEDS

SEC. 4.[2] (a) The Secretary shall conduct a detailed survey and study of the academic facilities needs of the Navajo Community College, and shall report to the Congress not later than August 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of such College and by the governing body of the Navajo tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need.

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[1] Enacted Dec. 15, 1971, P.L. 92-189, 84 Stat. 646.

This statute was amended Oct. 17, 1978 by Title II of the Tribally Controlled Community College Assistance Act of 1978 (entitled "Navajo Community College Assistance Act of 1978", P.L. 95-471, Title II, 92 Stat. 1329-1331) which includes the following congressional findings:

"Congressional Findings

"Sec. 202. The Congress after careful study and deliberation, finds that—

"(1) the Navajo Tribe constitutes the largest American Indian tribe in the United States;

"(2) the Navajo Tribe has, through its duly constituted tribal council and representatives, established a community college within the boundaries of the reservation;

"(3) the population of the Navajo Tribe and the best area of the Navajo reservation requires that the Navajo Community College expand to better serve the needs of such population; and

"(4) the Congress has already recognized the need for this institution by the passage of the Navajo Community College Act.".

Section 203(b) of this Act (P.L. 95-471, Title II) states that "Nothing in this title or in the amendment made by this title shall be deemed to authorize appropriations for the fiscal year beginning October 1, 1978."

[2] (25 U.S.C. 640c) Enacted Dec. 15, 1971, P.L. 92-189, sec. 4, 85 Stat. 646; amended Oct. 17, 1978, P.L. 95-471, sec. 203(a) 92 Stat. 1330. This section was expressly precluded from authorizing appropriations for the fiscal year beginning Oct. 1, 1978 by sec. 203(b) of P.L. 95-471.

(b) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of the Tribally Controlled Community College Assistance Act of 1978.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5.[3] (a)(1) For the purpose of making construction grants under this Act, there are hereby authorized to be appropriated such sums as may be necessary for the fiscal year beginning October 1, 1979, and for the two succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for construction shall, unless otherwise provided in appropriations Acts, remain available until expended.

(b)(1) There is further authorized to be appropriated for grants to the Navajo Community College, for any fiscal year beginning on or after October 1, 1979, for operation and maintenance of the college, an amount equal to $4,000 for each full-time equivalent Indian student (determined in accordance with section 2(7) of the Tribally Controlled Community College Assistance Act of 1978) which the Secretary of the Interior estimates will be in attendance at such college during such year.

(2) No grant under this subsection shall exceed—

(A) $4,000 for each such full-time equivalent Indian student in actual attendance at such college; or

(B) the total annual cost of the education program provided by such college,

whichever is less.

(3) The Secretary shall make payments, pursuant to grants under this subsection, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

(c) The Secretary of the Interior is authorized and directed to establish by rule procedures to insure that all funds appropriated under this Act are properly identified for grants to the Navajo Community College and that such funds are not commingled with appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.

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[3] (25 U.S.C. 640d) Added Oct. 17, 1978, P.L. 95-471, sec. 203(a), 92 Stat. 1330-1331. This section was expressly precluded from authorizing appropriations for the fiscal year beginning Oct. 1, 1978 by sec. 203(b) of P.L. 95-471.

Tribally Controlled Community College Assistance Act of 1978

(P.L. 95-471)[1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tribally Controlled Community College Assistance Act of 1978".

DEFINITIONS

(1) "Indian" means a person who is a member of an Indian tribe and is eligible to receive services from the Secretary of the Interior;

(2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(4) "tribally controlled community college" means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe;

(5) "institution of higher education" means an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965, except that clause (2) of such section shall not be applicable;

(6) "national Indian organization" means an organization which the Secretary finds is nationally based, represents a substantial Indian constituency, and has expertise in the field of Indian education; and

(7) "full-time equivalent Indian student" means the number of Indians enrolled full-time, and the full-time equivalent of the number of Indians enrolled part-time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve) in each tribally controlled community college, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term.

TITLE I—TRIBALLY CONTROLLED COMMUNITY COLLEGES

PURPOSE

Sec. 101. It is the purpose of this title to provide grants for the operation and improvement of tribally controlled community colleges to insure continued and expanded educational opportunities for Indian students.

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[1] (25 US.C. 1801, et seq.) Enacted Oct. 17, 1978, P.L. 95-471, 92 Stat. 1325.

GRANTS AUTHORIZED

SEC. 102. (a) The Secretary is authorized to make grants pursuant to this title to tribally controlled community colleges to aid in the postsecondary education of Indian students.

(b) Grants made pursuant to this title shall go into the general operating funds of the institution to defray the expense of activities related to education programs for Indian students. Funds provided pursuant to this title shall not be used in connection with religious worship or sectarian instruction.

ELIGIBLE GRANT RECIPIENTS

SEC. 103. To be eligible for assistance under this title, a tribally controlled community college must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians; and

(3) if in operation for more than one year, has students a majority of whom are Indians.

TECHNICAL ASSISTANCE CONTRACTS

SEC. 104. The Secretary shall provide, upon request, technical assistance to tribally controlled community colleges either directly or through contract. In the awarding of contracts for technical assistance, preference shall be given to an organization designated by the tribally controlled community college to be assisted. No authority to enter into contracts provided by this section shall be effective except to the extent authorized in advance by appropriations Acts.

FEASIBILITY STUDIES

SEC. 105. (a) The Secretary is authorized to enter into an agreement with the Assistant Secretary of Education of the Department of Health, Education, and Welfare to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the feasibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

(b) The Secretary, within thirty days after a request by any Indian tribe, shall initiate a feasibility study to determine whether there is justification to encourage and maintain a tribally controlled community college, and, upon a positive determination, shall aid in the preparation of grant applications and related budgets which will insure successful operation of such an institution.

(c) Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

(1) general administrative appropriations to the Secretary made after the date of enactment of this Act for such fiscal year; or

(2) not more than 10 per centum of the funds appropriated to carry out section 106 for such fiscal year.

GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 106. (a) Grants shall be made under this title only in response to applications by tribally controlled community colleges. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. The Secretary shall not consider any grant application unless a feasibility study has been conducted under section 105 and it has been found that the applying community college will service a reasonable student population.

(b) The Secretary shall consult with the Assistant Secretary of Education of the Department of Health, Education, and Welfare to determine the reasonable number of students required to support a tribally controlled community college. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

(c) Priority in grants shall be given to institutions which are operating on the date of enactment of this Act and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

(d) In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with tribal governments chartering the institutions being considered.

(e) The Secretary shall report to Congress on January 15 of each year the current status of tribally controlled community colleges and his recommendations for needed action.

AMOUNT OF GRANTS

SEC. 107. (a) Except as provided in section 110, the Secretary shall, for each academic year, grant to each tribally controlled community college having an application approved by him, an amount equal to $4,000 for each full-time equivalent Indian student in attendance at such college during such academic year, as determined by the Secretary in accordance with such regulations as he may prescribe, except that no grant shall exceed the total annual cost of the education program provided by such college.

(b) The Secretary shall make payments, pursuant to grants under this title, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

(c)(1) Each institution receiving payments under this title shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the purpose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled community colleges. The Secretary shall report annually to the Congress on such needs.

EFFECT ON OTHER PROGRAMS

SEC. 108. Except as specifically provided in this title, eligibility for assistance under this title shall not, by itself, preclude the eligibility of any tribally controlled college to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

APPROPRIATIONS AUTHORIZED

SEC. 109. (a)(1) There are authorized to be appropriated, for carrying out section 106, $25,000,000 for each of the fiscal years beginning October 1, 1979, and October 1, 1980, and $30,000,000 for the fiscal year beginning October 1, 1981.

(2) There are authorized to be appropriated $3,200,000 for each of such three fiscal years, for the provision of technical assistance pursuant to section 104.

(b) Unless otherwise provided in appropriations Acts, funds appropriated pursuant to this section shall remain available until expended.

(c) Nothing in this title shall be deemed to authorize appropriations for the fiscal year beginning October 1, 1978.

GRANT ADJUSTMENTS

SEC. 110. (a) If the sums appropriated for any fiscal year for grants under this title are not sufficient to pay in full the total amounts which approved grant applicants are eligible to receive under this title for that fiscal year, the amounts which such applicants are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for the same fiscal year, such reduced amounts shall be increased on the same basis as they were reduced. Sums appropriated in excess of the amount necessary to pay in full such total eligible amounts shall be allocated by ratably increasing such total eligible amounts.

(b) In any fiscal year in which the amounts for which grant recipients are eligible to receive have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for allocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 106(a) of this title.

REPORT ON CURRENT FACILITIES

SEC. 111. The Secretary shall, not later than ninety days after the date of enactment of this Act, prepare and submit a report to the Congress containing a survey of existing and planned physical facilities of tribally controlled community colleges, including in his report a survey of Bureau of Indian Affairs existing and planned facilities which may be used for tribally controlled community colleges without disruption of current Bureau programs.

STUDY OF FACILITIES NEEDS

SEC. 112. The Secretary shall conduct a detailed survey and study of the academic facilities needs of tribally controlled community colleges and shall report to the Congress not later than November 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of any such college and by the governing body of the tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need.

MISCELLANEOUS PROVISIONS

SEC. 113. (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title.

(b)(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institution determined to be in violation of paragraph (1).

RULES AND REGULATIONS

SEC. 114. (a) Within four months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this title.

(b) Within six months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(c) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this title.

(d) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of this Act.

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